DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138 and 1139

[DA–97–12]

Milk in the New England and Other Marketing Areas; Proposed Rule and Opportunity To File Comments, Including Written Exceptions, on Proposed Amendments to Marketing Agreements and Orders

7 CFR part	Marketing area
1000	General Provisions of Federal Milk Marketing Orders.
1001	New England.
1002	New York-New Jersey.
1004	Middle Atlantic.
1005	Carolina.
1006	Upper Florida.
1007	Southeast.
1012	Tampa Bay.
1013	Southeastern Florida.
1030	Chicago Regional.
1032	Southern Illinois-Eastern Missouri.
1033	Ohio Valley.
1036	Eastern Ohio-Western Pennsylvania.
1040	Southern Michigan.
1044	Michigan Upper Peninsula.
1046	Louisville-Lexington-Evansville.
1049	Indiana.
1050	Central Illinois.
1064	Greater Kansas City.
1065	Nebraska-Western Iowa.
1068	Upper Midwest.
1076	Eastern South Dakota.
1079	Iowa.
1106	Southwest Plains.
1124	Pacific Northwest.
1126	Texas.
1131	Central Arizona.
1134	Western Colorado.
1135	Southwestern Idaho-Eastern Oregon.
1137	Eastern Colorado.
1138	New Mexico-West Texas.
1139	Great Basin.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule consolidates the current 31 Federal milk marketing orders into 11 orders. This consolidation is proposed to comply with the 1996 Farm Bill which mandates that the current Federal milk orders be consolidated into between 10 to 14 orders by April 4, 1999. This proposed rule also sets forth two options for consideration as a replacement for the Class I price structure and proposes replacing the basic formula price with a multiple component pricing system. This proposed rule also establishes a new Class IV which would include milk used to produce nonfat dry milk, butter, and other dry milk powders; reclassifies eggnog and cream cheese; and addresses other minor classification changes. Part 1000 is proposed to be expanded to include sections that are identical to all of the consolidated orders to assist in simplifying and streamlining the orders.

DATES: Comments must be submitted on or before March 31, 1998.

ADDRESSES: Comments (two copies) should be submitted to Richard M. McKee, Deputy Administrator, Dairy Programs, USDA/AMS, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments also may be sent by fax to (202) 690–3410. Additionally, comments may be submitted via E-mail to: Milk__Order__Reform@usda.gov.

All comments should be identified with the docket number found in brackets in the heading of this document. To facilitate the review process, please state the particular topic(s) addressed, from the following list, at the beginning of the comment: consolidation, basic formula price, Class I price structure, other class prices, classification, provisions applicable to all orders, regional issues (please specify: Northeast, Southeast, Midwest, Western), and miscellaneous and administrative. If comments submitted pertain to a specific order, please identify such order.

Comments are also being requested on the Executive Order 12866 analysis, the Regulatory Flexibility Act analysis, and the Paperwork Reduction Act analysis.

Additionally, comments may be sent via E-mail to: Milk__Order__Reform@usda.gov.

All comments submitted in response to this proposal will be available for public inspection at the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, 14th and Independence Ave., S.W., Washington, D.C., during normal business hours (7 CFR 1.27(b)). All persons wanting to view the comments are requested to make an appointment in advance by calling Richard M. McKee at (202) 720–4392.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Branch Chief, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

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I. Legislative and Background Requirements

Legislative Requirements

Section 143 of the Federal Agriculture Improvement and Reform Act of 1996. (Farm Bill), 7 U.S.C. 7253, requires that by April 4, 1999,[1] the current Federal

[1] Section 143(b)(2) requires that a proposed rule be published by April 4, 1998 and Section 143(b)(3) provides that ''in the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time

milk marketing orders be consolidated into between 10 to 14 orders. The Secretary of Agriculture (Secretary) is also directed to designate the State of California as a Federal milk order if California dairy producers petition for and approve such an order. In addition, the Farm Bill provided that the Secretary may address related issues such as the use of utilization rates and multiple basing points for the pricing of fluid milk and the use of uniform multiple component pricing when developing one or more basic prices for manufacturing milk. Besides designating a date for completion of the required consolidation, the Farm Bill further requires that no later than April 1, 1997, the Secretary shall submit a report to Congress on the progress of the Federal order reform process. The report must cover three areas: a description of the progress made towards implementation, a review of the Federal order system in light of the reforms required, and any recommendations considered appropriate for further improvements and reforms. This report was submitted to Congress on April 1, 1997. Finally, the 1996 Farm Bill specifies that USDA use informal rulemaking to implement these reforms.[2]

Background

The authorization of informal rulemaking to achieve the mandated reforms of the Farm Bill has resulted in a rulemaking process that is substantially different from the formal rulemaking process required to promulgate or amend Federal orders. The formal rulemaking process requires that decisions by USDA be based solely on the evidentiary record of a public hearing held before an Administrative Law Judge. Formal rulemaking involves the presentation of sworn testimony, the cross-examination of witnesses, the filing of briefs, the issuance of a recommended decision, the filing of exceptions, the issuance of a final decision that is voted on by affected producers, and upon approval by producers, the issuance of a final order.

The informal rulemaking process does not require these procedures. Instead, informal rulemaking provides for the issuance of a proposed rule by the Agricultural Marketing Service, a period of time for the filing of comments by interested parties, and the issuance of a final rule by the Secretary, which would become effective if approved by the requisite number of producers in a referendum.

Full participation by interested parties is essential in the reform of Federal milk orders. The issues are too important and complex for this proposed rule to be developed without significant input from all facets of the dairy industry. The experience, knowledge, and expertise of the industry and public are integral to the development of the proposed rule. To ensure maximum public input into the process while still meeting the legislated deadline of April 4, 1999, USDA developed a plan of action and projected time line. The plan of action developed consists of three phases: *developmental, rulemaking,* and *implementation.*

The first phase of the plan was the *developmental* phase. The use of a *developmental* phase allowed USDA to interact freely with the public to develop viable proposals that accomplish the Farm Bill mandates, as well as related reforms. The USDA met with interested parties to discuss the reform progress, assisted in developing ideas or provided data and analysis on various possibilities, issued program announcements, and requested public input on all aspects of the Federal order program. The *developmental* phase began on April 4, 1996, and concludes with the issuance of this proposed rule.

The second phase of the plan is the *rulemaking* phase. The *rulemaking* phase begins with the issuance and publication of this proposed rule. This proposed rule provides the public 60 days to submit written comments on the proposal to USDA. These comments will be reviewed and considered prior to the issuance of a final rule.

The third and final phase of the plan is the *implementation* phase. The *implementation* phase will begin after the final rule is published in the **Federal Register**. This phase will consist of informational meetings conducted by Market Administrator personnel. The objective of the informational meetings is to inform producers and handlers about the newly consolidated orders and explain the projected effects on producers and handlers in the new marketing order areas. After informational meetings have been held, referendums will be conducted. Upon approval of the consolidated orders and related reforms by the required number of producers in each marketing area, a final order implementing the new orders will be issued and published in the **Federal Register**.

Although all of the issues regarding Federal milk order reform are interrelated, USDA has established several committees to address specific issues. The use of committees has allowed the reform process to be divided into more manageable tasks. The committees will work throughout the *developmental* and *rulemaking* phases. The committees that have been established are: Price Structure, Basic Formula Price, Identical Provisions, Classification, and Regional. The Regional committee is divided into four sub-committees: Midwest, Northeast, Southeast, and West. Committee membership consists of both field and headquarters Dairy Programs personnel. The committees have been given specific assignments related to their designated issue and have been meeting since May 1996.

In addition to utilizing USDA personnel, partnerships have been established with two university consortia to provide expert analyses on the issues relating to price structure and basic formula price options. Dr. Andrew Novakovic of Cornell University led the analysis on price structure and published a staff paper entitled ''U.S. Dairy Sector Simulator: A Spatially Disaggregated Model of the U.S. Dairy Industry'' and a research bulletin entitled ''An Economic and Mathematical Description of the U.S. Dairy Sector Simulator''[3] Dr. Ronald Knutson of Texas A&M University led the analysis on basic formula price options and published two working papers entitled ''An Economic Evaluation of Basic Formula Price (BFP) Alternatives'' and ''The Modified Product Value and Fresh Milk Base Price Formulas as BFP Alternatives.''[4]

Actions Completed

USDA has maintained continual contact with the industry regarding the reform process. To begin, on May 2, 1996, the Agricultural Marketing Service (AMS) Dairy Division issued a memorandum to interested parties announcing the planned procedures for

equal to the period of time for which the injunction or other restraining order is effective.''

[2] Since this proceeding was initiated on May 2, 1996, the Black Hills, South Dakota and the Tennessee Valley orders have been terminated. Effective October 1, 1996, the operating provisions of the Black Hills were terminated (61 FR 47038), and the remaining administrative provisions were terminated effective December 31, 1996 (61 FR 67927). Effective October 1, 1997, the operating provisions of the Tennessee Valley order were terminated (62 FR 47923). The remaining administrative provisions of the Tennessee Valley order will be terminated before this consolidation process is completed.

[3] Copies of this report may be obtained by contacting Ms. Wendy Barrett, Cornell University, ARME, 348 Warren Hall, Ithaca, NY 14853–7801, (607) 255–1581.

[4] Copies of these reports may be obtained by contacting Dr. Ronald Knutson, Agricultural and Food Policy Center, Dept. of Ag. Economics, Texas A&M University, College Station, TX 77843–2124, (409) 845–5913.

implementing the Farm Bill.[5] In this memorandum, all interested parties were requested to submit ideas on reforming Federal milk orders, specifically as to the consolidation and pricing structure of orders. Input was requested by July 1, 1996.

On June 24, 1996, USDA issued a press release announcing that a public forum would be held in Madison, Wisconsin, on July 29, 1996. The forum would address price discovery techniques for the value of milk used in manufactured dairy products. Thirty-one Senators, Congressmen, university professors, representatives of processor and producer organizations, and dairy farmers made presentations at the forum.

On October 24, 1996, AMS Dairy Division issued a memorandum to interested parties requesting input regarding all aspects of Federal milk order reform and specifically as to its impact on small businesses. USDA anticipates that the consolidation of Federal orders will have an economic impact on handlers and producers affected by the program, and USDA wants to ensure that, while accomplishing their intended purpose, the newly consolidated Federal orders will not unduly inhibit the ability of small businesses to compete.

On December 3, 1996, AMS Dairy Division issued a memorandum to interested parties announcing the release of the preliminary report on Federal milk order consolidation. The report recommends the consolidation of the current 32 Federal milk orders into ten orders. (See Appendix A for report summary.) The memorandum requested input from all interested parties on the recommended consolidated orders and on any other aspect of the milk marketing order program by February 10, 1997.

On March 7, 1997, AMS Dairy Division issued a memorandum to interested parties announcing the release of three reports that addressed the Class I price structure, the classification of milk, and the identical provisions contained in a Federal milk order. The price structure report consisted of a summary report and a technical report and discussed several options for modifying the Class I price structure. (See Appendix B for report summary.) The classification report recommended the reclassification of certain dairy products, including the removal of Class III–A pricing for nonfat dry milk. (See Appendix C for report summary.) The identical provisions report recommended simplifying, modifying, and eliminating unnecessary differences in Federal order provisions. (See Appendix D for report summary.) Comments on the contents of these reports, as well as on any other aspect of the program, was requested from interested parties by June 1, 1997.

On April 18, 1997, AMS Dairy Division issued a memorandum to interested parties announcing the release of the preliminary report on Alternatives to the Basic Formula Price (BFP). The report contained suggestions, ideas, and initial findings for BFP alternatives. Over eight categories of options were identified with four options recommended for further review and discussion. (See Appendix E for report summary.) The memorandum requested input from all interested parties on a BFP alternative and on any other aspect of the milk marketing order program by June 1, 1997.

On May 20, 1997, AMS Dairy Division issued a memorandum to interested parties announcing the release of a revised preliminary report on Federal milk order consolidation. The revisions were based on the input received from interested parties in response to the initial preliminary report on order consolidation. (See Appendix F for report summary.) Instead of recommending 10 consolidated orders as in the first report, the revised report recommended 11 consolidated orders and suggested the inclusion of some currently unregulated territory. The memorandum requested comments from all interested parties on the recommended consolidated orders and on any other aspect of the milk marketing order program by June 15, 1997.

To elicit further input on the role of the National Cheese Exchange price in calculating the basic formula price, on January 29, 1997, the Secretary sissued a press release announcing steps being taken by USDA to address concerns raised by dairy producers about how milk prices are calculated. In the press release, the Secretary requested further comments from interested parties about the use of the National Cheese Exchange in the determination of the basic formula price, which is the minimum price that handlers must pay dairy farmers for milk used to manufacture Class III products (butter and cheese) and the price used to establish the Class I and Class II prices. These comments were requested by March 31, 1997, and have been useful in analyzing alternatives to the basic formula price in context of the order reform process.

Public Interaction

As a result of these announcements and the forum, more than 1,600 individual comments have been received by USDA. In addition to the individual comments, more than 3000 form letters have been received. All comments were reviewed by USDA personnel and are available for public inspection at USDA. To assist the public in accessing the comments, USDA contracted to have the comments scanned and published on a CD. The use of this technology has allowed interested parties throughout the United States access to the information received by USDA.

USDA also made all publications and requests for information available on the Internet. A separate page under the Dairy Division section of the AMS Homepage was established to provide information about the reform process. To assist in transmitting correspondence to USDA, a special electronic mail account—Milk__Order__Reform@usda.gov—was opened to receive input on Federal milk order reforms.

USDA personnel met continually with interested parties from May 1996 through the issuance of this proposed rule to gather information and ideas on the consolidation of Federal milk orders. During this time period, USDA personnel addressed over 250 groups comprised of more than 22,000 individuals on various issues related to Federal order reform.

USDA personnel also conducted in-person briefings for both the Senate and House Agricultural Committees on the progress of Federal milk order reforms. Since May 1996, seven briefings were conducted for the committees. The briefings advised the committees of the plan of action for implementing the Farm Bill mandates; explained the preliminary report on the consolidation of Federal milk orders; explained the contents of the reports addressing Class I price structure, classification of milk, identical provisions and basic formula price; and discussed the congressional report.

Public Input

To ensure the involvement of all interested parties, particularly small businesses as defined in the following Initial Regulatory Flexibility Analysis, in the process of Federal order reform, three primary methods of contact have been used: direct written notification, publication of notices through various media forms, and speaking and meeting with organizations and individuals regarding the issue of Federal order

[5] Copies of this announcement and all subsequent announcements and reports can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy/.

reforms. In addition, information has been made available to the public via the Internet. USDA also made one written program announcement specifically requesting information from small businesses.

All announcements made by USDA have been mailed to over 20,000 interested parties, State Governors, State Department of Agriculture Secretaries or Commissioners, and the national and ten regional Small Business Administration offices. In addition, most dairy producers under the orders were notified through regular market service bulletins published by Market Administrators on a monthly basis. Press releases were issued by USDA for the May 2, 1996, December 3, 1996, January 29, 1997, March 7, 1997, and May 20, 1997, announcements, and for the July 31, 1996, public forum.[6] These press releases were distributed to approximately 33 wire services and trade publications and to each State Department of Agriculture Communications Officer. These methods of notification helped to ensure that virtually all identified small businesses were contacted.

Departmental personnel, both in the field and from Washington, actively met with interested parties to gather input and to clarify and refine ideas already submitted. Formal presentations, round table discussions, and individually scheduled meetings between industry representatives and Departmental personnel were held. Over 250 organizations and more than 22,000 individuals were reached through this method. Of these individuals, approximately 13,400 were identified as small businesses.

As a result of the requests for information, publication of informational reports, meetings with interested parties, and the comments, AMS has prepared this proposed rule which contains proposals addressing the following issues: the consolidation of marketing areas; basic formula price replacement and other class price issues; Class I price structure; classification of milk; provisions applicable to all orders; regional issues relating to the Northeast, Southeast, Midwest, and Western areas; and various other miscellaneous and administrative issues. Each proposal is discussed in detail following this preliminary statement that includes Executive Order 12988 and 12866 discussions, the Regulatory Flexibility Analysis, and the Paperwork Reduction Analysis.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a 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 the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), 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 request modification or exemption from such order by filing 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 law. 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 its 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 the date of the entry of the ruling.

Executive Order 12866

The Department is issuing this proposed rule in conformance with Executive Order 12866. This proposed rule has been determined to be economically significant for the purposes of Executive Order 12866. When proposing a regulation which is determined to be economically significant, agencies are required, among other things, to: assess the costs and benefits of available regulatory alternatives; base regulatory decisions on the best reasonably-obtainable technical, economic, and other information; avoid duplicative regulations; and tailor regulations to impose the least burden on society consistent with obtaining regulatory objectives. Therefore, to assist in fulfilling the objectives of Executive Order 12866, the USDA prepared an initial Regulatory Impact Analysis (RIA). Information contained in the RIA pertaining to the costs and benefits of the revised regulatory structure are summarized in the following analysis. Copies of the RIA can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy.

This rule proposes the consolidation of the current 31 Federal milk marketing order areas into 11 marketing order areas. The proposed marketing areas are: Northeast, Mideast, Upper Midwest, Central, Appalachian, Southeast, Florida, Southwest, Arizona-Las Vegas, Western, and Pacific Northwest. The consolidated marketing areas consist primarily of territory that is in the current Federal order markets. In addition, they would include some previously unregulated territory. At this time, California is not proposed as a Federal order. This consolidation is proposed to comply with the 1996 Farm Bill that mandates the current Federal milk order marketing areas be consolidated into between 10 to 14 marketing areas by April 4, 1999. This proposed rule also sets forth two options for consideration as a replacement for the Class I price structure and proposes replacing the basic formula price with a multiple component pricing system. These changes are proposed to address concerns that the current system of pricing Class I milk may not adequately reflect the value of Class I milk at various locations or the value of milk used in manufacturing products. The 1996 Farm Bill identified these as related issues that may be addressed in the consolidation of milk marketing orders. The proposed rule further proposes changes to classification of milk by establishing a new Class IV which would include milk used to produce nonfat dry milk, butter, and other dry milk powders; the reclassification of eggnog and cream cheese; and other minor changes. These proposed changes should improve handler reporting and accounting procedures thereby providing for greater market efficiencies. Finally, this proposed rule expands Part 1000 to include provisions that are identical within each consolidated order to assist in simplifying the orders. These provisions include the definitions of route disposition, plant, distributing plant, supply plant, nonpool plant, handler, other source milk, fluid milk product, fluid cream product, cooperative association, and commercial food processing establishment. In addition, the milk classification section, pricing provisions, and most of the provisions relating to payments have been included in the General Provisions. These proposed changes adhere with the efforts of the National Performance Review—Regulatory Reform Initiative to simplify, modify,

[6] Copies of these press releases may be obtained from Dairy Programs at (202) 720–4392, or via the Internet at http://www.ams.usda.gov/news/newsrel.htm.

and eliminate unnecessary repetition of regulations. Unique regional issues or marketing conditions have been considered and included in each market's order provisions. Not all of these changes would be considered economically significant; however, changes dealing with marketing area consolidation, the basic formula price, and the Class I pricing structure may be significant and are described further in the following sections.

Economic Impacts of Consolidation

It is impossible to determine the economic effects of the proposed marketing area consolidation on handlers, producers and consumers without using assumptions about the specific order provisions contained in the consolidated order areas. The only effect consolidation, as a single factor, can have on the various market participants is its effect on the percentage of milk used in different classes within the proposed consolidated orders. Without assumptions that include the specific class prices and milk uses in different products, there are no means of quantifying the economic effects of consolidation.

Handlers would be affected by class prices, which would be determined by the Class I price surface option that is selected, and by the minimum prices contained in all of the orders for milk used in Classes II, III and IV. Handlers similarly located would be subject to the same minimum Class I, Class II, Class III and Class IV prices for milk. Such handlers would also be subject to the same minimum prices to be paid to producers.

Dairy farmers would be affected by the proposed consolidation of marketing areas because changes in utilization percentages would result in changes in blend prices. As in the case of effects on handlers, however, it is impossible to accurately determine a separate consolidation effect on producers, defined in monetary terms. The closest approximation to such an estimate would be the ''weighted average utilization value'' (WAUV). These ''prices'' reflect only the change in value that can be attributed to changes in utilization rates, with no assumptions about changes in the levels of the various class prices. Such estimates, of necessity, would reflect only anticipated *changes* in blend prices, using class prices that would no longer be in effect under the consolidated orders. To the extent that the WAUV computations reflect some of the effect of the effect of consolidation on producer prices, they are included in this analysis. It should be noted, however, that all producers in any given current area would be affected to an equal extent by the consolidation factor.

The following table shows the potential impact of three order consolidation options on producers who supply each of the current Federal milk marketing order areas via WAUV ''prices''. The three consolidated options are (1) the consolidated marketing areas suggested in the December 1996 initial Preliminary Report on Order Consolidation; (2) the consolidated marketing areas suggested in the May 1997 Revised Preliminary Report on Order Consolidation; and (3) the consolidated marketing areas suggested in this proposed rule.

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)

[Based on October 1995 information]

Consolidated Market / Current Markets	Marketing areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Northeast	.....	$13.46	.....	$13.48	.....	$13.47
New England (F.O. 1)	$13.50	13.48	$13.52	13.51	$13.52	13.49
NY-NJ (F.O. 2)	13.44	13.48	13.48	13.50	13.45	13.48
Middle Atlantic (F.O. 4)	13.45	13.39	13.45	13.41	13.44	13.40
Appalachian	.....	14.13	.....	13.96	.....	13.97
Carolina (F.O. 5)	14.23	14.21	14.23	14.19	14.23	14.20
Tenn. Valley (F.O. 11)	13.92	13.95	13.92	13.93	13.92	13.94
Lville-Lex-Evan (F.O. 46)	n/a	n/a	13.35	13.39	13.35	13.40
Florida	.....	15.05	.....	15.05	.....	15.05
Upper Florida (F.O. 6)	14.67	14.78	14.67	14.78	14.67	14.78
Tampa Bay (F.O. 12)	15.09	15.04	15.09	15.04	15.09	1504
SE Florida (F.O. 13)	15.42	15.31	15.42	15.31	15.42	15.31
Southeast	.....	14.26	.....	14.25	.....	14.24
Southeast (F.O. 7)	14.26	14.26	14.25	14.25	14.24	14.27
Mideast	.....	12.96	.....	12.94	.....	12.92
Ohio Valley (F.O. 33)	12.99	13.02	12.99	13.01	12.99	13.00
E. Ohio-W. PA (F.O. 36)	13.07	13.00	13.10	12.99	13.07	12.97
S. Michigan (F.O. 40)	12.75	12.86	12.75	12.84	12.75	12.83
MI Upper Penin. (F.O. 44)	12.81	12.62	12.81	12.62	12.81	12.61
Lville-Lex-Evan (F.O. 46)	13.35	13.06	n/a	n/a	n/a	n/a
Indiana (F.O. 49)	12.97	12.94	12.97	12.93	12.97	12.92
Upper Midwest	.....	12.60	.....	12.62	.....	12.60
Chicago Reg. (F.O. 30)	12.62	12.62	12.62	12.61	12.62	12.62
MI Upper Penin. (F.O. 44)	R	R	R	R	R	R
Neb.-W. Iowa (F.O. 65)	n/a	n/a	12.63	12.74	n/a	n/a
Upper Midwest (F.O. 68)	12.55	12.56	12.55	12.54	12.55	12.56
E. South Dakota (F.O. 76)	n/a	n/a	12.81	12.65	n/a	n/a
Iowa (F.O. 79)	n/a	n/a	12.69	12.67	n/a	n/a

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)—Continued

[Based on October 1995 information]

Consolidated Market / Current Markets	Marketing areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Central	.....	13.16	.....	13.21	.....	12.95
S. IL-E. MO (F.O. 32)	12.93	12.90	13.00	12.95	13.00	12.88
Central IL (F.O. 50)	13.03	12.74	13.03	12.78	13.03	12.72
Greater K. City (F.O. 64)	13.22	12.90	13.22	12.95	13.22	12.88
Neb.-W. Iowa (F.O. 65)	12.63	12.81	n/a	n/a	12.63	12.79
E. South Dakota (F.O. 76)	12.81	12.68	n/a	n/a	12.81	12.67
Iowa (F.O. 79)	12.71	12.71	n/a	n/a	12.71	12.70
SW Plains (F.O. 106)	13.31	13.33	13.31	13.41	13.08	13.29
E. Colorado (F.O. 137)	13.27	13.31	13.27	13.38	13.27	13.27
Southwest	.....	13.36	.....	13.39	.....	13.39
Texas (F.O. 126)	13.49	13.48	13.49	13.46	13.49	13.46
Central AZ (F.O. 131)	13.26	13.17	n/a	n/a	n/a	n/a
NM-W. Texas (F.O. 138)	13.00	13.09	13.00	13.07	13.00	13.07
Arizona-Las Vegas	.....	n/a	.....	13.26	.....	13.26
Central AZ (F.O. 131)	n/a	n/a	13.26	13.29	13.26	13.29
Western	.....	12.79	.....	12.78	.....	12.78
W. Colorado (F.O. 134)	13.41	12.84	13.41	12.82	13.41	12.82
SW ID-E. OR (F.O. 135)	12.63	12.68	12.63	12.68	12.63	12.68
Great Basin (F.O. 139)	12.83	12.81	12.81	12.79	12.81	12.79
Pacific Northwest	.....	12.45	.....	12.44	.....	12.44
Pacific NW (F.O. 124)	12.45	12.45	12.44	12.44	12.44	12.44

n/a: Not applicable
R: Restricted

For each option, a weighted average use value (WAUV) is computed for (a) the consolidated order; (b) the current order with current use of milk; and (c) the current order with projected use of milk in the consolidated order. The difference between the weighted average use values in (b) and (c) represents the potential impact on producers.

For example, in this proposed rule, the New England (F.O. 1) market's WAUV using its current utilization is $13.52 per cwt. When the three markets are consolidated and the new consolidated utilization is used to calculate the WAUV, New England's WAUV would be $13.49 per cwt. In this comparison, the potential impact on producers supplying the New England market area would be a decrease of three cents per cwt.

Each of the three options assumes the pool distributing plant standards suggested for each of the consolidated orders in this proposed rule; thus the calculated values in the preceding table are not directly comparable to the WAUV values published with either the initial or the revised reports on order consolidation.

Economic Impact of Basic Formula Price Proposal

A number of options for determining a basic formula price were considered and analyzed in the process of developing the proposed basic formula price (BFP). In addition to the proposed method of pricing components based on their value in manufactured products, other options examined by both the Agricultural Marketing Service's *Basic Formula Price Replacement Committee* [7] and the *University Study Committee* (USC), led by Dr. Ronald D. Knutson of Texas A & M University, were: economic formulas, futures markets, cost of production, competitive pay pricing, and pricing differentials only.

Descriptions of the two Committees' analyses, and results of their work are included in ''A Preliminary Report on Alternatives to the Basic Formula Price,'' published in April 1997 by the Basic Formula Price Committee, Dairy Division, AMS; [8] and the following reports from the Agricultural and Food Policy Center, Texas A&M University System:

''An Economic Evaluation of Basic Formula Price (BFP) Alternatives,'' AFPC Working Paper 97–2, June 1997.

''Evaluation of Final Four Basic Formula Price Options,'' AFPC Working Paper 97–9, August 1997.[9]

The primary criterion used by the BFP Committee was that any replacement BFP option reflect the supply of and demand for milk used in manufactured dairy products. At the same time, one of the USC's critical criteria for a replacement BFP was that it reliably reflect market conditions for all manufactured products.

In trying to determine the most appropriate replacement for the current BFP, which uses a survey of prices paid by manufacturing plants for non-Grade A milk updated by a product price

[7] The Basic Formula Price Committee was established in May 1996 to consider replacements for the basic formula price during the Federal order reform process. This committee and others established are described further in the ''Background'' portion of this proposed rule.

[8] Copies of this report can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy/.

[9] Copies of these reports may be obtained by contacting Dr. Ronald Knutson, Agricultural and Food Policy Center, Dept. of Ag. Economics, Texas A&M University, College Station, TX 77843–2124, or (409) 845–5913.

formula, the goal of both groups was a market-based alternative. The BFP Committee measured the extent to which each pricing option met its primary goal by tracking the options against the current BFP for a period of prior months.[10] The USC Committee used an econometric procedure to test the ability of the alternatives they considered to reflect supply and demand.

To the extent the goal of identifying a BFP that reflects the value of milk used in manufactured products is capable of attainment, all market participants—handlers, producers, and consumers—would be affected by the BFP replacement in the same manner as if they were operating in a free market, with no external impacts caused by regulation. Consumers can be assured that the prices generally charged for dairy products are prices that reflect, as closely as possible, the forces of supply and demand in the market.

Of the options considered and analyzed, both groups studying the issue determined that the option of pricing components of milk according to their value in manufactured products, as reflected by the sales prices of those products, best approximates the intersection of supply and demand for milk used in manufactured dairy products.

Economic Impact of Multiple Component Pricing Provisions

Seven of the 11 proposed orders provide for milk to be paid for on the basis of its components (multiple component pricing, or MCP). Five of the 7 MCP orders also provide for milk values to be adjusted according to the somatic cell count of producer milk. The equipment needed for testing milk for its component content can be very expensive to purchase, and requires highly-skilled personnel to maintain and operate. The cost of infra-red analyzers ranges from just under $100,000 to $200,000. The infra-red machines that are used by most laboratories will test for total solids and somatic cells at the same time the butterfat and protein tests are done.

Some additional information is necessary from handlers on their monthly reports of receipts and utilization to assure that producers are paid correctly. In particular, handlers would be required to report pounds of protein, pounds of other solids, and, in 5 of the orders, somatic cell information. This data would be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as handlers pursuant to § 1000.9(c), and, in some cases, receipts of bulk milk received by transfer or diversion.

Since producers would be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers must reflect the basis for such payment. Therefore, the handler would be required to supply the producer not only with the information currently supplied, but also: (a) the pounds of butterfat, the pounds of protein, and the pounds of other solids contained in the producer's milk, as well as the producer's average somatic cell count; and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. It should be noted that handlers already are required to report information relative to pounds of production, butterfat, and rates of payment for butterfat and hundredweight of milk.

Of over 74,000 producers whose milk was pooled in December 1996 under 23 orders that would be part of consolidated orders providing for multiple component pricing, the milk of 52,500 of these producers was pooled under 13 orders that currently have MCP. Handlers in these markets already have incurred the initial costs of testing milk for its component content and have already made the needed transition to reporting the additional information required for component pricing of milk.

Of the remaining 21,750 producers who would be affected by MCP provisions under a Federal order, the milk of approximately 13,000 of these producers currently is received by handlers who test or have the capability of testing for multiple components and, in many cases, somatic cells. Many of these handlers also report component results to the producers with their payments. Almost all of the producers whose milk currently is not being tested or paid for on the basis of components are located in the New England and New York-New Jersey marketing areas, which would be consolidated with the Middle Atlantic area into the proposed Northeast order.

Accommodation has been made to ameliorate handlers' expenses of testing producer milk for component content. As component pricing plans have been adopted under a number of the present Federal milk orders since 1988, the component testing needed to implement these pricing plans has been performed by the market administrators responsible for the administration of the orders involved for handlers who are not equipped to make all of the determinations required under the amended orders. This policy would continue under this proposed rule. Thus, handlers who are unable to obtain the equipment and personnel needed to accomplish the required testing for component pricing would be able to rely on the market administrators to verify or establish the tests under which producers are paid.

Economic Impacts of Class I Price Changes

Several different options were considered for pricing fluid or Class I milk. These pricing options included using a market-driven basic formula price plus differentials based on location, differentials based on the ratio of milk used for fluid purposes compared to all other uses, flat differentials, flat differentials modified in high Class I use areas, and differentials based on the demand for fluid milk within a designated marketing area and the associated transportation costs. Other options considered would have decoupled Class I pricing from the basic formula price or pooled Class I differentials only (i.e., eliminated the basic formula price entirely). Finally, suggestions were considered to base Class I pricing on the cost of production and to base differentials on only regional supply and demand conditions. After analyzing these options and more than 1400 letters that were submitted from interested persons, the Department narrowed the pricing options to four and conducted extensive quantitative and qualitative analysis on them. The four options selected include location-specific differentials, relative value-specific differentials, and decoupled Class I prices with adjustors. Although four Class I price structure options are analyzed in the RIA, only two options are considered as viable replacements for the current Class I price structure in the proposed rule. However, comments are requested on all options prior to determining which option should be adopted.

Three of the four pricing options in the RIA assume that milk would be classified in the four classes of use detailed in the proposed rule. One option in the RIA has only two classes of milk and thus is not detailed in the proposed rule. For purposes of the RIA analysis, Class IV milk is priced using the proposed butter-nonfat dry milk product formula, but since the product prices proposed for use in the formula are not presently available, the Chicago Mercantile Exchange spot price for

[10] It was assumed that the current BFP successfully reflects the supply and demand for milk used in manufactured products.

butter and the average nonfat dry milk wholesale price reported by USDA's Dairy Market News for the Western States are substituted. Also, Class III milk is priced using the proposed cheese product formula, and the Class II milk price for the month is equal to the Class IV price for the month plus 70 cents per hundredweight (cwt).

The initial RIA assesses costs and benefits for dairy farmers, fluid milk processors, dairy product manufacturers, and consumers. The impact of each of the four Class I pricing options is measured as a change from a baseline. The model baseline was adapted from the USDA dairy baseline estimate published as part of the President's Budget for Fiscal Year 1998.[11] That baseline, which is a national annual projection of the supply-demand-price situation for milk and dairy products, was the basis for the market-by-market baseline of the model. Both the President's Budget Baseline and the model baseline assume the same program assumptions: namely, that the price support program will be phased out by December 31, 1999, that the Dairy Export Incentive Program will continued to be utilized, and that the Federal Milk Order Program will be continued at the same level of class prices currently in existence. Assumptions also are made concerning the cost of production—especially feed, the commercial utilization of milk and dairy products, commercial inventories, and imports. All parameters, except those associated with the changes in the Federal Milk Order Program, are assumed to remain unchanged.

To evaluate the impacts on dairy farmers, fluid milk processors, and dairy product manufacturers of the four selected Class I pricing options, a baseline estimate was constructed assuming that the current 32 orders [12] would continue through the study period, 1999–2004. To make comparisons, proposed pricing points for the proposed 11 consolidated orders were identified to correspond with the base pricing zones of the 32 current marketing orders. For example, for the consolidated Appalachian Region order, which would have the city of Charlotte as its base pricing point, prices also were identified for Knoxville and Louisville. These 3 pricing points correspond with the base pricing points of the 3 markets that are to be combined into the Appalachian regional order.

Location-Specific Differentials (Option 1A) Analysis

This option would establish a nationally coordinated system of location-specific Class I price differentials reflecting the relative economic value of milk by location. An important feature of the option is that it would also include location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of defined milk marketing area boundaries or order pooling provisions. It is based on the economic efficiency rationale presented in Cornell University research on the U.S. dairy sector.[13] A basic premise of this option is that the value of milk varies according to location across the United States. The concepts of spatial price value and relative price relationships together with marketing data and expert knowledge of local conditions and marketing practices and a review of supply and demand conditions are used to develop a national Class I price structure.

Overall, the magnitude of changes in price and income under this option compared to the baseline are small. The all-milk price for all Federal order markets combined during the 1999–2004 period is estimated to average 5 cents per cwt higher. For all of the U.S. the all-milk price is estimated to average 3 cents higher. The average all-milk price at the basing point of 18 current markets could experience increases of 1 to 29 cents per cwt. At the basing point of the 13 markets, the average all-milk price could decrease from 3 to 83 cents per cwt.

The 5 markets with the greatest increases in all-milk prices were Eastern Colorado ($0.29), New York-New Jersey ($0.28), Tampa Bay ($0.26), Southwest Plains ($0.25), and Upper Florida ($0.24). The market with the greatest reduction in price was Western Colorado (−$0.83), Central Illinois (−$0.66), Greater Kansas City (−$0.53), Eastern South Dakota (−$0.51), and Southern Illinois-Eastern Missouri (−$0.34). The annual average all-milk price in the previously-unregulated areas of New York and New England declined $0.87 per cwt.

Changes in gross cash receipts, as expected, moved in the same direction as the change in the all-milk price in a given market. Over the period 1999–2004, location-specific differentials raised gross receipts in 18 markets. It appears that the estimated average annual receipts for producers in the current New York-New Jersey market increased by $37.2 million. However, most of this increase was the result of adding to the all-milk price the current $0.15 reduction on all milk marketings for transportation. It is expected that this apparent increase in the all-milk price and dairy farmer income would be offset by a like amount by increased transportation costs paid by the producer. The markets with the greatest estimated increase in gross receipts for milk marketing were Southwest Plains ($11.8 million), Chicago Regional ($10.9 million), Southern Michigan ($10.7 million), New England ($7.4 million), and Eastern Colorado ($7.2 million). Gross receipts in the current Chicago Regional and Upper Midwest markets may have been expected to increase more since this option increased the Class I differentials at those points substantially. However, this option also envisions the expansion of transportation credits within the merged order to move milk which is expected to use 20 percent of the dollars generated by the higher Class I differentials. Over-order charges which currently fund transportation credits are expected to be reduced by a like amount.

The largest estimated decreases in cash receipts occur in the Southern Illinois-Eastern Missouri (−$8.5 million), Great Basin (−$4.1 million), Middle Atlantic (−$2.9 million), Texas (−$2.5 million), and Greater Kansas City (−$2.5 million) markets. Nine other current markets would lose average annual gross cash receipts during the period 1999–2004 of less than $2.0 million each. The previously unregulated areas of New York and New England would lose an estimated average of $16.9 million in annual gross receipts from milk marketings. Under location-specific differentials the estimated average annual gross receipts for all Federal order markets combined increased by $68.1 million and the entire US increased $53.1 million compared to the baseline for the 1999–2004 period.

Fluid processors in 21 of the 32 Federal order market areas face increased Class I differentials if this

[11] See *Agricultural Baseline Projections to 2005, Reflecting the 1996 Farm Act*, Interagency Agricultural Projections Committee, U.S. Department of Agriculture, Office of the Chief Economist, World Agricultural Outlook Board, Staff Report, WAOB–97–1 and ''Budget of the United States Government, Fiscal Year 1998.''

[12] The following analyses were completed prior to the termination of the Tennessee Valley marketing order and thus the results identify it as a pricing point. Most of the plants and milk of the former Tennessee Valley market have become regulated under either the Southeast order or the Carolina order.

[13] Bishop, Phillip, James Pratt, Eric Erba, Andrew Novakovic, and Mark Stephenson, An Economic and Mathematical Description of the U.S. Dairy Sector Simulator, Research Bulletin 97–09, A Publication of the Cornell Program on Dairy Markets and Policy, Department of Agricultural, Resource, and Managerial Economics, Cornell University, July 1997.

option were adopted compared with Class I differentials under the baseline. Fluid processors in four of the Federal order markets and in the previously-unregulated areas of New York and New England would see no changes in Class I differentials. Fluid processors in the remaining seven Federal order markets would see decreases in Class I differentials compared with the baseline. The increases in differentials ranged from $0.01 per cwt in the New England and New York-New Jersey markets to $0.50 per cwt in the Upper Midwest. Decreases in Class I differentials would range from $0.03 per cwt in the Middle Atlantic to $0.25 per cwt in New Mexico-West Texas. Those fluid processors facing higher Class I differentials would see their monthly obligations to the markets' producer-settlement funds increase while those facing lower Class I differentials would see their obligations decrease.

With virtually no change in the amount of milk available for manufacturing, manufacturers of dairy products would face nearly the same supply and demand conditions that they now face when buying milk or selling dairy products. Manufacturers in the Southwest, where milk marketings are expected to decline, may have less milk to process while manufacturers in the Upper Midwest may find that they have slightly more milk for manufacturing.

Relative Value-Specific Differentials (Option 1B) Analysis

Like a location-specific differential structure, a relative value-specific differential structure would also establish a nationally coordinated system of Class I price differentials and adjustments that recognizes several low pricing areas. Option 1B relies on a least cost optimal solution from the USDSS model to develop a Class I price structure that is based on the most efficient assembly and shipment of milk and dairy products to meet all market demands for milk and its products. Option 1B relies more on the market and the negotiating ability of processors and producers to generate higher prices when needed to provide the necessary incentive to move milk in order to satisfy demand.

Three methods of phasing into the Class I differentials under Option 1B were evaluated. First, a 20-percent gradual phase-in was analyzed; then, a transitional phase-in that would offset any lost revenue was analyzed; and finally, a revenue-enhancement phase-in that would add additional revenue into the Class I price structure was analyzed.

Phase-in Method 1

With the gradual phase-in, the estimated all-milk price for all Federal order markets combined during the 1999–2004 period could average 8 cents per cwt lower than the baseline. The estimated average all-milk price at the basing point of 11 Federal order markets could increase from 1 to 32 cents per cwt. At the basing point of the other 21 Federal order markets, the all-milk price is estimated to decrease from 1 to 58 cents per cwt.

The 5 markets with the greatest estimated increases in average all-milk prices, for the 1999–2004 period are: New Mexico-West Texas ($0.32), Chicago Regional ($0.19), Tampa Bay ($0.19), Nebraska-Western Iowa ($0.17), and Southwest Idaho-Eastern Oregon ($0.15). The 5 Federal order markets with the greatest estimated reductions in price are: Eastern South Dakota (−$0.58), Michigan Upper Peninsula (−$0.55), Western Colorado (−$0.55), Greater Kansas City (−$0.53), and Carolina (−$0.46). The annual average all-milk price in the previously unregulated areas of New York and the New England states is estimated to decline by $0.96 per cwt compared to the baseline.

Over the period 1999–2004, 1B differentials could lower producer gross cash receipts from minimum order prices in 21 of the Federal order markets. The five current markets that would have the greatest decreases were: Texas (−$36.8 million), Middle Atlantic (−$26.2 million), Upper Midwest (−$15.9 million), Carolina (−$15.2 million), and Southeast (−$12.5 million). The annual average reduction in estimated gross receipts in the previously unregulated areas of New York and the New England states is estimated at $18.5 million from the baseline. Estimated gross receipts increased in 11 markets. The five markets that would have the greatest increases in gross receipts were: Chicago Regional ($31.5 million), New Mexico-West Texas ($9.1 million), Southern Michigan ($6.6 million), Southwestern Idaho-Eastern Oregon ($5.8 million), and New York-New Jersey ($5.3 million).

Phase-in Method 2

A possible modification to the relative value-specific differentials would be to initially raise Class I differentials by 55 cents per cwt above the level called for in the first year of transition. During the second year, Class I differentials would be set at 35 cents above the transition level; the third year, 20 cents above; and the fourth year, 10 cents above the called-for transition differentials. At the beginning of the fifth year, Class I differentials would be fully phased in and no assistance provided.

Under this phase-in method, the estimated all-milk price for all Federal order markets combined during the 1999–2004 period could average 4 cents per cwt lower than the baseline. The estimated average all-milk price at the basing point of 12 Federal order markets could increase from 3 to 36 cents per cwt. At the basing point of 20 Federal order markets, the all-milk price is estimated to decrease from 2 to 53 cents per cwt from the baseline.

The five markets with the greatest estimated increases in average all-milk prices, per cwt, for the 1999–2004 period are: New Mexico-West Texas ($0.36), Tampa Bay ($0.32), Nebraska-Western Iowa ($0.22), Upper Florida ($0.20), and Chicago Regional ($0.23). The five markets with the greatest estimated reductions in price are: Eastern South Dakota (−$0.53), Western Colorado (−$0.52), Michigan Upper Peninsula (−$0.49), Greater Kansas City (−$0.48), and Texas (−$0.34). The annual average all-milk price in the previously unregulated areas of New York and the New England states is estimated to decline by $0.93 per cwt compared to the baseline.

Over the period 1999–2004, this phase-in option would lower estimated producer gross cash receipts attributable to minimum order prices in 19 of the Federal order markets. The 5 markets with the greatest estimated decreases were Texas (−$32.6 million), Middle Atlantic (−$22.8 million), Upper Midwest (−$13.9 million), Carolina (−$10.7 million), and Arizona-Las Vegas (−$7.6 million). The annual average reduction in estimated gross receipts in the previously unregulated areas of New York and the New England states is $17.8 million lower than the baseline. Gross receipts from milk marketings could increase in the following markets: Chicago Regional ($34.4 million), New York-New Jersey ($11.7 million), Southern Michigan ($10.4 million), New Mexico-West Texas ($10.4 million), and Tampa Bay ($7.0 million). Total estimated cash receipts for the combined current Federal orders would average $40 million less for the 6-year period.

Phase-in Method 3

Another phase-in option would enhance prices during the transition period by $1.10 for first year phase-in differentials, $0.70 in the second year, $.40 in the third year, and $.20 in the fourth year. The additional price enhancement provided to dairy farmers

under this method is intended to help producers make the necessary investments and other changes to compete in a more market-oriented economy. At the beginning of the fifth year, Class I differentials would be fully phased in at the Option 1B levels.

With the use of additional revenue under this phase-in option, the estimated all-milk price for all Federal order markets combined during the 1999–2004 period could be expected to be unchanged from the baseline. The estimated average all-milk price at the basing point of 15 Federal order markets would increase from 1 to 43 cents per cwt. At the basing point of the other 17 Federal order markets, the all-milk price is estimated to decrease from 3 to 52 cents per cwt.

The five markets with the greatest estimated increases in average all-milk prices, per cwt, for the 1999–2004 period were: Tampa Bay ($0.43) New Mexico-West Texas ($0.41), Upper Florida ($0.32), Nebraska-Western Iowa ($0.26), and South Eastern Florida ($0.26). The five markets with the greatest estimated reductions in price were: Western Colorado (−$0.52), Eastern South Dakota (−$0.49), Greater Kansas City (−$0.44), Michigan Upper Peninsula (−$0.43), and Texas (−$0.33). The annual average all-milk price in the previously unregulated areas of New York and the New England states is estimated to decline by $0.88 per cwt compared to the baseline. Total estimated cash receipts for the combined current Federal order markets would average $34.9 million higher for the 6-year period.

Over the period 1999–2004, this phase-in option could lower estimated producer gross cash receipts from milk marketings in 16 of the current markets. The five current markets with the greatest decreases were: Texas (−$28.2 million), Middle Atlantic (−$19.0 million), Upper Midwest (−$14.6 million), Carolina (−$6.5 million) and Arizona-Las Vegas (−$6.0 million). The annual average reduction in estimated gross receipts in the previously unregulated areas of New York and the New England states is estimated at $16.9 million from the baseline. Gross receipts from milk marketings increased in 16 markets. The five markets that would have the greatest increases were: Chicago Regional ($33.5 million), New York-New Jersey ($19.0 million), Southern Michigan ($14.4 million), New Mexico-West Texas ($11.7 million), and Tampa Bay ($9.8 million).

Decoupled Baseline Class I Price with Adjustors (Option 5) Analysis

A third option analyzed in the RIA would retain the current Class I differentials, but floor Class I prices in all markets at their 1996 average levels. Adjustments to this price would be made based on changes in fluid use rates and short term costs of production (i.e., feed costs). Under this option, the all-milk price for all Federal order markets combined would increase $0.07 per cwt and the U.S. is projected to increase $0.03 per cwt over the 6-year period. In 19 of the Federal order markets, the average all-milk price would be higher by $0.01 to $0.50 per cwt. In 12 Federal order markets, the average all-milk price would decrease from $0.03 to $0.82 per cwt.

Flooring the Class I prices at the average 1996 levels would result in higher Class I prices in all markets in 1999 and 2000 and higher all-milk prices in most markets when compared to the baseline. These increased incentives for milk production would result in greater volumes of milk for manufacturing and lower manufacturing prices.

Location-Specific Differentials (Option 6) Analysis

This option would establish minimum prices for milk used in Class I by adding market-specific Class I differentials to the proposed Class II price. Class II would contain all manufactured products and would be priced by a cheese product price formula using the National Agricultural Statistical Service surveyed 40-pound cheddar cheese price times 9.87 plus the Chicago Mercantile Exchange Grade A butter price times 0.238 less $1.80. The Class I differentials in this option would be phased in over a five-year period.

In general, the Class I differentials in the central section of the country would be reduced while those in the Northwest, New England and Florida are increased. After the proposed price surface is fully phased in, 20 markets would have Class I differentials that are reduced and 10 markets would have increases.

Under this option, the all-milk price for all Federal order markets combined would decline $0.10 per cwt over the six year period. In 23 of the Federal order markets, the average all-milk price would decline by less than $0.01 to $0.95 per cwt. In 9 orders, the all-milk price would increase $0.02 to $0.19 per cwt.

Gross cash receipts from milk marketings in the combined Federal orders would average $148.8 million less than the baseline for the 6-year period. Cash receipts would be lower in 23 markets and higher in 9 markets. Because of this decline in cash receipts and since it is inconsistent with the four-class system contained in the proposed rule, this Class I price option is not detailed in the Class I price structure section of the proposed rule. This two-class pricing system was found to be insufficient to recognize the different use-values of milk for reasons set forth in the Basic Formula Replacement and Classification portions of this proposed rule.

Other Impacts of Pricing Options

The potential impacts of the options analyzed in the initial RIA on retail prices, and thus consumers, is less certain than the impacts on other sectors of the dairy industry. In general, changes in farm milk prices and wholesale prices are passed onto consumers. However, the timing and the degree of these pass-throughs is uncertain. It is assumed that all changes in farm milk prices (fluid processor costs) and the wholesale costs of manufactured products would be passed on to the retail level without any changes in the farm-processor-retail or farm-wholesale-retail margins.

Because of the bulky and perishable nature of packaged fluid milk, all international trading of dairy products, with the exception of limited exports of fluid milk to Mexico, is in manufactured products. An appendix table in the initial RIA details USDA's baseline estimates of international and domestic prices for butter and nonfat dry milk.

Neither location-specific differentials nor relative value-specific differentials are expected to have a significant impact on domestic, wholesale dairy product prices and therefore little effect on international trade of manufactured dairy products.

Economic Impacts of Classification Changes

The classification of milk recommendations should not have a significant economic impact on any dairy industry participants. This proposed rule provides uniform milk classification provisions for the newly consolidated milk orders. The recommendations should improve reporting and accounting procedures for handlers and provide for greater market efficiencies.

Most of the changes regarding milk classification provisions proposed for the newly consolidated orders would simplify order language and remove obsolete language.

This proposed rule contains a modified fluid milk product definition and recommends that certain products be reclassified. The revised fluid milk product definition proposed for the new orders should provide more consistency in determining the classification of products. The inclusion of eggnog to the list of fluid milk products and the reclassification of cream cheese from Class III to Class II will cause a nominal increase in the cost of the finished product. However, these changes, which will be applicable to all handlers regulated under the new orders, should not have a significant impact on the retail price of these products. Although producers will benefit from these products being reclassified into higher utilization classes, the impact of the product classification changes on the blend price to producers will be marginal.

Another modification includes the reclassification of butter and whole milk powder from Class III to Class IV. This change merely places these market-clearing products in the new Class IV with nonfat dry milk. The change promotes market efficiency and should have a minimal impact on producers' blend prices.

One recommendation with possible economic implications concerns the treatment of milk used to produce bulk sweetened condensed milk/skim milk. Some commenters argued that the wide price difference that sometimes exists between the Class II price and the Class III–A price has put manufacturers of sweetened condensed milk at a competitive disadvantage with manufacturers of nonfat dry milk, which can be substituted for bulk sweetened condensed milk and skim milk in some higher-valued products.

Although this proposed rule does not recommend a reclassification for milk used in bulk sweetened condensed milk, it does propose a change in the relationship between the Class II and IV prices which should eliminate the price disparity that now, at times, exists. As discussed in the ''Class III and Class III–A (i.e., Class IV) Milk'' section of this proposed rule, the proposed new Class II price will be equal to the Class IV price plus a 70-cent differential. The coupling of the Class II and Class IV prices will largely remove the incentive to substitute nonfat dry milk for bulk sweetened condensed milk.

The recommendations regarding shrinkage provisions should provide equity among handlers, improve market efficiencies, and facilitate accounting procedures. This proposed rule provides that shrinkage be assigned pro rata based on a handler's utilization. As discussed in the ''Shrinkage and Overage'' section of this proposed rule, this modification should result in a slight increase (i.e., one cent per cwt.) in the blend price paid to producers.

For the reasons stated above, the milk classification provisions proposed herein should have little economic impact on dairy industry participants.

The Regulatory Flexibility Act and the Effects on Small Businesses

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic impact of the proposed rule on small entities and has prepared this initial regulatory flexibility analysis. The RFA provides that when preparing such analysis an agency shall address: the reasons, objectives, and legal basis for the proposed rule; the kind and number of small entities which would be affected; the projected recordkeeping, reporting, and other requirements; and federal rules which may duplicate, overlap, or conflict with the proposed rule. Finally, any significant alternatives to the proposal should be addressed. This initial regulatory flexibility analysis considers these points and the impact of this proposed regulation on small entities, and evaluates alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the dairy industry.

This regulatory action is being considered in accordance with Section 143 of the Federal Agriculture Improvement and Reform Act of 1996, 7 U.S.C. 7253, (the Farm Bill) which requires the Secretary of Agriculture (Secretary) to consolidate the existing 31 Federal milk marketing orders, as authorized by the Agricultural Marketing Agreement Act of 1937, into between 10 and 14 orders. The Secretary is also directed to designate the State of California as a Federal milk order if California dairy producers petition for and approve such an order. Finally, the Farm Bill specifies that the Department of Agriculture use informal rulemaking to implement these reforms. The Farm Bill requires that a proposed rule be published by April 4, 998, and all reforms of the Federal milk order program be completed by April 4, 1999.

In addition to these required mandates, the Farm Bill provides that the Secretary may address related issues such as the use of utilization rates and multiple basing points for the pricing of fluid milk and the use of uniform multiple component pricing when developing one or more basic formula prices for manufacturing milk. This proposed rule also sets forth two options for consideration as a replacement for the Class I price structure and proposes replacing the basic formula price with a multiple component pricing system. These changes are proposed to address concerns that the current system of pricing Class I milk may not adequately reflect the value of Class I milk at various locations or the value of milk used in manufacturing products. The 1996 Farm Bill identified these as related issues that may be addressed in the consolidation of milk marketing orders. The proposed rule further proposes changes to classification of milk by establishing a new Class IV which would include milk used to produce nonfat dry milk, butter, and other dry milk powders; the reclassification of eggnog and cream cheese; and other minor changes. These proposed changes should improve handler reporting and accounting procedures thereby providing for greater market efficiencies. Finally, this proposed rule expands Part 1000 to include provisions that are identical within each consolidated order to assist in simplifying the orders. These provisions include the definitions of route disposition, plant, distributing plant, supply plant, nonpool plant, handler, other source milk, fluid milk product, fluid cream product, cooperative association, and commercial food processing establishment. In addition, the milk classification section, pricing provisions, and most of the provisions relating to payments have been included in the General Provisions. These proposed changes adhere with the efforts of the National Performance Review—Regulatory Reform Initiative to simplify, modify, and eliminate unnecessary repetition of regulations. Unique regional issues or marketing conditions have been considered and included in each market's order provisions.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to the actions in order that small businesses would not be unduly or disproportionately burdened. To accomplish this purpose, it first is necessary to define a small business. According to the Small Business Administration's definition of a ''small business,'' a dairy farm is a ''small business'' if it has an annual gross revenue of less than $500,00 and a handler is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy

farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. During the process of developing this proposed rule, USDA identified approximately 80,000 of the 83,000 dairy producers (farmers) that have their milk pooled under a Federal order as small businesses. Thus, small businesses represent approximately 96 percent of the producers in the United States. On the processing side, there are over 1,200 plants associated with Federal orders, and of these plants, approximately 700 qualify as ''small businesses'' representing about 55 percent of the total.

During August 1997, there were 524 fully regulated handlers (343 distributing and 181 supply plants), 134 partially regulated handlers and 111 producer-handlers submitting reports under the Federal milk marketing order program. During 1996, 83,012 dairy farmers delivered over 104.5 billion pounds of milk to handlers regulated under the milk orders. This volume represents 69 percent of all milk marketed in the U.S. and 72 percent of the milk of bottling quality (Grade A) sold in the country. The value of the milk delivered to Federal milk order handlers at minimum order blend prices was nearly $14.6 billion. Producer deliveries of milk used in Class I products (mainly fluid milk products) totaled 45.5 billion pounds—43.5 percent of total Federal order producer deliveries. More than 200 million Americans reside in Federal order marketing areas—77 percent of the total U.S. population.

The Federal milk order program is designed to set forth the terms of trade between buyers and sellers of fluid milk. A Federal order enforces the minimum price that processors (handlers) in a given marketing area must pay producers or farmers for milk according to how it is utilized. A Federal order further requires that the payments for milk be pooled and paid to individual dairy farmers or cooperative associations on the basis of a uniform or average price. It is important to note that a Federal milk order, including the pricing and all other provisions, only becomes effective after approval, through a referendum, by dairy farmers associated with the order.

Development of the proposed rule began with the premise that no additional burdens should be placed on the industry as a result of Federal order consolidation and reform. As a step in accomplishing the goal of imposing no additional regulatory burdens, a review of the current reporting requirements was completed pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). In light of this review, it was determined that this proposed rule would have little impact on reporting, recordkeeping, or other compliance requirements because these would remain almost identical to the current Federal order program. No new forms have been proposed; however, some additional reporting would be necessary in the proposed orders that would be adopting multiple component pricing if the current orders do not already have these provisions.

There are two principal reporting forms for handlers to complete each month that are needed to administer the Federal milk marketing orders. The forms are used to establish the quantity of milk used and received by handlers, the pooling status of the handler, the class-use of the milk used by the handler, and the butterfat content and amounts of other components of the milk. This information is used to compute the monthly uniform price paid to producers in each of the markets. Handlers in the marketing areas adopting multiple component pricing would be required to complete additional information regarding the components of the milk. This information would be necessary to enable their values of milk to be determined on the basis of these components and to assure that producers are paid correctly. Many handlers already collect and report this information.

This proposed rule does not require additional information collection that requires clearance by the OMB beyond the currently approved information collection. The primary source of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than industry average.

New territory, or pockets of unregulated territory within and between current order areas has been included in the proposed consolidated marketing areas where such expansion would not have the effect of fully regulating plants that are not now regulated. The addition can benefit regulated handlers by eliminating the necessity of reporting sales outside the Federal order marketing area for the purpose of determining pool qualification. Where such areas can be added to a consolidated area without having the effect of causing the regulation of any currently-unregulated handler, they are proposed to be added.

Handlers not currently fully regulated under Federal orders may become regulated for two main reasons: first, in the process of consolidating marketing areas, some handlers who currently are partially regulated may become fully regulated because their sales in the combined marketing areas would meet the pooling standards of a suggested consolidated order area. Second, previously unregulated area in New York, Vermont, New Hampshire and Massachusetts was added on the basis of requests and supporting information. As a result, previously unregulated handlers would become fully regulated. Because of these two reasons, 24 additional plants are expected to become fully regulated under the program. Of these 24 plants, it is estimated that 15 are small businesses that would need to comply with the reporting, recordkeeping, and compliance requirements. The completion of these reports would require a person knowledgeable about the receipt and utilization of milk and milk products handled at the plant. This most likely would be a person already on the payroll of the business such as a bookkeeper, controller or plant manager. The completion of the necessary reporting, recordkeeping, and compliance requirements would not require any highly specialized skills and should not require the addition of personnel to complete. In fact, much of the information that handlers report to the market administrator is readily available from normally maintained business records, and as such, the burden on handlers to complete these recordkeeping and reporting requirements is expected to be minimal. In addition, assistance in completing forms is readily available from market administrator offices. A description of the forms and a complete Paperwork Reduction Act analysis follows this section.

No other burdens are expected to fall upon the dairy industry as a result of overlapping Federal rules. This proposed regulation does not duplicate,

overlap or conflict with any existing Federal rules.

To ensure that small businesses are not unduly or disproportionately burdened based on this proposed regulation, consideration was given to several options with the intention of mitigating negative impacts. Three options, including two suggested in the preliminary reports issued by AMS in December 1996 and May 1997, were considered with regard to the consolidation of Federal orders, five options were considered as replacements for the basic formula price, and seven options were considered with regard to the development of a new Class I price structure. The following options were considered by AMS prior to and during the development of the proposed regulation.

Consolidation Options

It is impossible to determine the economic effects of marketing area consolidation on handlers, producers and consumers without using assumptions about the specific order provisions contained in the consolidated order areas. The only effect consolidation, as a single factor, can have on the various market participants is through changes in the percentage of milk used in different classes within the proposed consolidated orders. Without assumptions that include the specific class prices and milk uses in different products, there are no means of quantifying the economic effects of consolidation.

Handlers would be affected by class prices, which would be determined by the Class I price surface option that is selected, and by the minimum prices contained in all of the orders for milk used in Classes II, III and IV. The Class I price surface options considered could have impacts on small handler entities, however, handlers similarly located would be subject to the same minimum Class I prices, regardless of the size of their operations, and all handlers would be subject to the same minimum prices for Class II, Class III and Class IV milk. Such handlers would also be subject to the same minimum prices to be paid to producers.

Producers may be somewhat more affected by consolidation of marketing areas because changes in utilization percentages would result in changes in blend prices. As in the case of effects on handlers, however, it is impossible to determine a separate consolidation effect on producers, defined in monetary terms. The closest approximation to such an estimate would be the ''weighted average utilization value'' (WAUV). These ''prices'' reflect only the change in value that can be attributed to changes in utilization rates, with no assumptions about changes in the levels of the various class prices. Such estimates, of necessity, reflect only anticipated changes in blend prices, using class prices that would no longer be in effect under the consolidated orders. To the extent that the WAUV computations reflect some of the effect of consolidation on producer prices, they are included in this analysis under each option discussion. It should be noted, however, that all producers in any given current area would be affected to an equal extent by the consolidation factor, with no disproportionate effect on small dairy farmer entities.

The following table shows the potential impact of three order consolidation options on producers who supply each of the current Federal milk marketing order areas via WAUV ''prices''. The three consolidated options are (1) the consolidated marketing areas suggested in the December 1996 initial Preliminary Report on Order Consolidation; (2) the consolidated marketing areas suggested in the May 1997 Revised Preliminary Report on Order Consolidation; and (3) the consolidated marketing areas suggested in this proposed rule.

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)

[Based on October 1995 information ($/cwt)]

Consolidated Market	Marketing Areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
Current Markets	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Northeast		$13.46		$13.48		$13.47
New England (F.O. 1)	13.50	13.48	13.52	13.51	13.52	13.49
NY–NJ (F.O. 2)	13.44	13.48	13.48	13.50	13.45	13.48
Middle Atlantic (F.O.4)	13.45	13.39	13.45	13.41	13.44	13.40
Appalachian		14.13		13.96		13.97
Carolina (F.O. 5)	14.23	14.21	14.23	14.19	14.23	14.20
Tenn. Valley (F.O. 11)	13.92	13.95	13.92	13.93	13.92	13.94
Lville-Lex-Evan (F.O. 46)	n/a	n/a	13.35	13.39	13.35	13.40
Florida		15.05		15.05		15.05
Upper Florida (F.O. 6)	14.67	14.78	14.67	14.78	14.67	14.78
Tampa Bay (F.O. 12)	15.09	15.04	15.09	15.04	15.09	15.04
SE Florida (F.O. 13)	15.42	15.31	15.42	15.31	15.42	15.31
Southeast		14.26		14.25		14.24
Southeast (F.O. 7)	14.26	14.26	14.25	14.25	14.24	14.27
Mideast		12.96		12.94		12.92
Ohio Valley (F.O. 33)	12.99	13.02	12.99	13.01	12.99	13.00
E. Ohio-W. PA (F.O. 36)	13.07	13.00	13.10	12.99	13.07	12.97
S. Michigan (F.O. 40)	12.75	12.86	12.75	12.84	12.75	12.83
MI Upper Penin. (F.O. 44)	12.81	12.62	12.81	13.262	12.81	12.61
Lville-Lex-Evan (F.O. 46)	13.35	13.06	n/a	n/a	n/a	n/a
Indiana (F.O. 49)	12.97	12.94	12.97	12.93	12.97	12.92
Upper Midwest		12.60		12.62		12.60

WEIGHTED AVERAGE UTILIZATION VALUES (WAUV)—Continued

[Based on October 1995 information ($/cwt)]

Consolidated Market / Current Markets	Marketing Areas in Initial Consol. Report (Dec. 96) (Option 1)		Marketing Areas in Revised Consol. Report (May 97) (Option 2)		Marketing Areas in Proposed Rule (Option 3)	
	Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)		Consol. Mkt. WAUV ($/cwt)	
	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)	WAUV using Current Mkt. Utilization ($/cwt)	WAUV using Consol. Mkt. Utilization ($/cwt)
Chicago Reg. (F.O. 30)	12.62	12.62	12.62	12.61	12.62	12.62
MI Upper Penin. (F.O. 44)	R	R	R	R	R	R
Neb.-W. Iowa (F.O. 65)	n/a	n/a	12.63	12.74	n/a	n/a
Upper Midwest (F.O. 68)	12.55	12.56	12.55	12.54	2.55	12.56
E. South Dakota (F.O. 76)	n/a	n/a	12.81	12.65	n/a	n/a
Iowa (F.O. 79)	n/a	n/a	12.69	12.67	n/a	n/a
Central		13.16		13.21		12.95
S. IL–E MO (F.O. 32)	12.93	12.90	13.00	12.95	13.00	12.88
Central IL (F.O. 50)	13.03	12.74	13.03	12.78	13.03	12.72
Greater K. City (F.O. 64)	13.22	12.90	13.22	12.95	13.22	12.88
Neb.-W. Iowa (F.O. 65)	12.63	12.81	n/a	n/a	12.63	12.79
E. South Dakota (F.O. 76)	12.81	12.68	n/a	n/a	12.81	12.67
Iowa (F.O. 79)	12.71	12.71	n/a	n/a	12.71	12.70
SW Plains (F.O. 106)	13.31	13.33	13.31	13.41	13.08	13.29
E. Colorado (F.O. 137)	13.27	13.31	13.27	13.38	13.27	13.27
Southwest		13.36		13.39		13.39
Texas (F.O. 126)	13.49	13.48	13.49	13.46	13.49	13.46
Central AZ (F.O. 131)	13.26	13.17	n/a	n/a	n/a	n/a
NW–W Texas (F.O. 138)	13.00	13.09	13.00	13.07	13.00	13.07
Arizona–Las Vegas		n/a		13.26		13.26
Central AZ (F.O. 131)	n/a	n/a	13.26	13.29	13.26	13.29
Western		12.79		12.78		12.78
W. Colorado (F.O. 134)	13.41	12.84	13.41	12.82	13.41	12.82
SW ID–E. OR (F.O. 135)	12.63	12.68	12.63	12.68	12.63	12.68
Great Basin (F.O. 139)	12.83	12.81	12.81	12.79	12.81	12.79
Pacific Northwest		12.45		12.44		12.44
Pacific NW (F.O. 124)	12.45	12.45	12.44	12.44	12.44	12.44

n/a: not applicable.
R: Restricted.

For each option, a weighted average use value (WAUV) is computed for (a) the consolidated order; (b) the current order with current use of milk; and (c) the current order with projected use of milk in the consolidated order. The difference between the weighted average use values in (b) and (c) represents the potential impact on producers.

For example, in this proposed rule, the New England (F.O. 1) market's WAUV using its current utilization is $13.52 per cwt. When the three markets are consolidated and the new consolidated utilization is used to calculate the WAUV, New England's WAUV would be $13.49 per cwt. In this comparison, the potential impact on producers supplying the New England market area would be a decrease of three cents per cwt.

Each of the three options assumes the pool distributing plant standards suggested for each of the consolidated orders in this proposed rule; thus the calculated values in the preceding table are not directly comparable to the WAUV values published with either the initial or the revised reports on order consolidation.

During the process of developing this proposed rule, AMS issued two reports suggesting 10 and 11 marketing area boundaries, respectively, to meet the requirements of the 1996 Farm Bill. The marketing areas defined in these reports were based primarily on an analysis of receipt and distributing data from fluid distributing plants in October 1995. Over 900 comments regarding consolidation issues received thus far in the development process also have been considered: almost 50 comments prior to the December 1996 release of the Preliminary Report on Order Consolidation (Option 1); an additional 60 comments prior to the May 1997 release of the Revised Preliminary Report on Order Consolidation (Option 2); and another 800 comments since release of the revised report. These comments were filed primarily by producers and handlers. Incorporated in the marketing area boundaries suggested in the revised report and in the proposed consolidation in this rule (Option 3) are both information contained in the comments as well as data gathered to update the information on which the earlier report(s) were based where questions were raised about the boundaries of suggested marketing areas and where marketing changes had occurred.

Option 1 (Preliminary Report on Order Consolidation, December 1996)

Based on seven criteria: ((1) Overlapping route disposition; (2) overlapping areas of milk supply; (3) number of handlers within a market; (4) natural boundaries; (5) cooperative association service areas; (6) features common to existing orders, such as similar multiple component pricing plans; and (7) milk utilization in common dairy products), 10 marketing areas (Northeast, Appalachian, Florida, Southeast, Mideast, Upper Midwest, Central, Southwest, Western and Pacific Northwest) were suggested in this

report. Data were gathered relating to the receipts and distribution of fluid milk products for all known distributing plants located in the 47 contiguous States, not including the State of California, for the month of October 1995.

The current Federal orders that comprise the initially-suggested consolidated areas are as follows: NORTHEAST—current marketing areas of the New England, New York-New Jersey, and Middle Atlantic Federal milk orders; APPALACHIAN—current marketing areas of the Carolina and Tennessee Valley Federal milk orders, and a portion of the Louisville-Lexington-Evansville Federal milk order; FLORIDA—current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders; SOUTHEAST—current marketing areas of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area, 15 currently unregulated Kentucky counties, and 2 currently unregulated northeast Texas counties; MIDEAST—current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, and Indiana Federal milk orders, plus most of the current marketing area of the Louisville-Lexington-Evansville Federal milk order, Zone 2 of the Michigan Upper Peninsula Federal milk order, and 12 counties of the Southern Illinois-Eastern Missouri Federal milk order; UPPER MIDWEST—current marketing areas of the Chicago Regional and Upper Midwest Federal milk orders, plus Zones I and I(a) of the Michigan Upper Peninsula Federal milk order and seven unregulated or partly regulated Wisconsin counties; CENTRAL—current marketing areas of the Southern Illinois-Eastern Missouri (less 12 counties included in the suggested Mideast marketing area), Central Illinois, Greater Kansas City, Nebraska-Western Iowa (less 11 currently-regulated counties suggested to be unregulated), Eastern South Dakota, Iowa, Southwest Plains, and Eastern Colorado Federal milk orders, plus 63 currently-unregulated counties in seven of the states; SOUTHWEST—current marketing areas of the Texas, New Mexico-West Texas, and Central Arizona Federal milk orders; WESTERN—current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders; and PACIFIC NORTHWEST—current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon.

Based on the WAUV calculations shown in the previous table, utilization rate changes due to consolidation could affect producer prices. The column labeled ''Option 1'' shows the WAUV for the consolidated order and each of the current orders suggested in the December 1996 report.

In the Northeast market, producers currently affiliated with the New England and Middle Atlantic would have negative impacts on their WAUV, respectively, while New York-New Jersey producers would be positively impacted. In the Appalachian market, Carolina producers should expect some negative impacts due to consolidation, while Tennessee Valley producers would experience positive effects from this consolidation. In the Florida market, Upper Florida producers would gain while Tampa Bay and Southeastern Florida producers would have a negative impact resulting from this consolidation. The Southeast market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected. In the Mideast market, producers affiliated with the Ohio Valley and Southern Michigan Federal orders would probably see increases in blend prices due to this consolidation, while producers affiliated with the Eastern Ohio-Western Pennsylvania, Michigan Upper Peninsula, Louisville-Lexington-Evansville and Indiana Federal orders would see decreases. In the Upper Midwest market, the Upper Midwest producers should see slight increases while Chicago Regional producers would probably have no impact due to this consolidation. Of all the consolidated markets, producers in the current Orders that compose the Central market probably would see the largest changes due to this consolidation: producers with the Nebraska-Western Iowa, Southwest Plains and Eastern Colorado markets may see increases, while producers affiliated with the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, and Eastern South Dakota markets may see decreases. Producers with the Iowa market would probably have no impact due to this suggested Central market consolidation. In the Southwest market, producers affiliated with the New Mexico-West Texas would see increases due to this consolidation while Texas and Central Arizona producers would see decreases. In the Western market, Southwestern Idaho-Eastern Oregon producers would see increases but Western Colorado and Great Basin producers would see decreases. The Pacific Northwest market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected.

Of approximately 83,000 dairy producers delivering milk to handlers regulated under the milk orders, about 80,000 are considered to be small businesses under the production guideline of less than 326,000 pounds per month.

As stated above, handlers are impacted more significantly by class prices and minimum prices than by expected utilization changes resulting from consolidation. Of the 371 distributing plants expected to be fully regulated under this 10-market suggested configuration under the assumptions used in the December 1996 report, an estimated 193 plants are small businesses under the criteria provided by the SBA (under 500 employees).

Option 2 (Revised Preliminary Report on Order Consolidation, May 1997)

Eleven marketing areas were suggested in this second report. Because numerous comments indicated that the boundaries of some marketing areas should be re-evaluated, and also because regulatory shifts and distributing plant distribution areas had occurred, more detailed and updated data was obtained. The same seven criteria used in Option 1 were applied in this option as well. Modifications were made to the Northeast, Appalachian, Southeast, Mideast, Upper Midwest, Central, Southwest and Western regions, as follows (only the changes to these orders are noted): NORTHEAST—Addition of contiguous unregulated areas of New Hampshire, Vermont and New York; the western non-Federally regulated portion of Massachusetts, the Western New York State order area, and Pennsylvania Milk Marketing Board Areas 2 and 3 in northeastern Pennsylvania; APPALACHIAN—Addition of all of the Louisville-Lexington-Evansville Federal order (with the exception of one county included in the suggested Southeast market) and 26 currently-unregulated counties in Indiana and Kentucky; SOUTHEAST—Minus 2 currently-unregulated counties in northeast Texas (in the suggested Southwest market); MIDEAST—Addition of Pennsylvania Milk Marketing Board Area 6 (in western/central Pennsylvania) and 2 currently-unregulated counties in New York, and minus the Louisville-Lexington-Evansville Federal order area, 12 counties in Illinois, and unregulated counties in Indiana and Kentucky (in the suggested Appalachian market); UPPER MIDWEST—Addition of the Iowa, Eastern South Dakota, and most of

the Nebraska-Western Iowa Federal order areas, plus currently-unregulated counties in Iowa and Nebraska; CENTRAL—Addition of 12 counties in the current Southern Illinois-Eastern Missouri Federal order that initially were suggested as part of the consolidated Mideast area, and minus the Eastern South Dakota, Iowa, and most of the Nebraska-Western Iowa Federal order marketing area; SOUTHWEST—Addition of 2 currently-unregulated northeast Texas counties that initially were suggested as part of the consolidated Southeast market and 47 currently-unregulated counties in southwest Texas, and minus the Central Arizona marketing area; ARIZONA-LAS VEGAS—this new eleventh marketing area composed of the current marketing area of the Central Arizona Federal order and the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties; and WESTERN—Minus Clark County, Nevada. The FLORIDA and PACIFIC NORTHWEST marketing areas did not change from the preliminary report.

Based on the WAUV calculations shown in the previous table, utilization rate changes due to consolidation could affect producer prices. The column labeled ''Option 2'' shows the WAUV for the consolidated order and each of the current orders suggested in the May 1997 report.

In the Northeast market, producers currently affiliated with the New England and Middle Atlantic orders would have negative impacts on their WAUV, respectively, while New York-New Jersey producers would remain unchanged. In the Appalachian market, Carolina producers should expect some negative impacts due to consolidation, while Tennessee Valley and Louisville-Lexington-Evansville producers would experience positive effects from this consolidation. In the Florida market, Upper Florida producers would gain while Tampa Bay and Southeastern Florida producers would have a negative impact resulting from this consolidation. The Southeast market remains virtually the same as it does currently and thus, little impact on producer prices would be expected. In the Mideast market, producers affiliated with the Ohio Valley and Southern Michigan Federal orders would probably see increases in blend prices due to this consolidation, while producers affiliated with the Eastern Ohio-Western Pennsylvania, Michigan Upper Peninsula, and Indiana Federal orders would see decreases. In the Upper Midwest market, the Nebraska-Western Iowa producers should see increases, while Chicago Regional, Upper Midwest, Eastern South Dakota, and Iowa producers would have a decrease in producer prices due to this consolidation. In the Central market, producers with the Southwest Plains and Eastern Colorado markets would see increases, while producers affiliated with Southern Illinois-Eastern Missouri, Central Illinois, and Greater Kansas City markets may see decreases. In the Southwest market, producers affiliated with New Mexico-West Texas would see increases due to this consolidation while Texas producers would see decreases. The added Arizona-Las Vegas market is virtually the same as the Central Arizona market but a positive impact on producer prices may result from an additional handler. In the Western market, Southwestern Idaho-Eastern Oregon producers would see increases but Western Colorado and Great Basin producers would see decreases. The Pacific Northwest market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected.

Of approximately 83,000 dairy producers delivering milk to handlers regulated under the milk orders, about 80,000 are considered to be small businesses under the production guideline of less than 326,000 pounds per month. In addition, it is estimated that about 13 percent of the total milk production in Pennsylvania is represented only by the Pennsylvania Milk Marketing Board. Under this option, this production would be added to the Federal order pool and affect an undetermined number of businesses which would include both small and large producers.

As stated above, handlers are impacted more significantly by class prices and minimum prices than by expected utilization changes resulting from consolidation. Of the 379 plants expected to be fully regulated under this 11-market suggested configuration under the assumptions used in the May 1997 report, 175 plants are estimated to be small businesses on the basis of fewer than 500 employees.

The preliminary consolidation report (Option 1) stated that the Farm Bill requirement to consolidate existing marketing areas did not specify expansion of regulation to previously non-Federally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. However, on the basis of data, views and arguments filed by interested persons in response to the initial Preliminary Report (Option 1) requesting that currently non-Federally regulated areas be added to some consolidated marketing areas, the revised Preliminary Report (Option 2) suggests that such areas be added to several consolidated areas, the Northeast and Mideast market areas in particular. Approximately 20 handlers who would have been affected by the expansion of Federal order areas into currently non-Federally regulated areas were notified of the possible change in their status and encouraged to comment.

Handlers located in Pennsylvania Milk Marketing Board Areas 2, 3 and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. If such plants do meet Federal order pooling standards, the State continues to enforce some of its regulations in addition to Federal order regulations. As state-regulated handlers, they must pay a Class I price for milk used in fluid products which is often higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns.

Option 3: The Proposed Consolidation

The proposed consolidation is a result of extensive analysis of data as previously indicated and consideration of public comments submitted in response to Options 1 and 2. Extensive outreach, which is explained in the ''Public Input'' section, was completed. After compiling this information, the proposed order consolidation was developed to ensure industry integrity.

Eleven marketing areas are proposed in this rule, including modifications to some of the 11 marketing orders suggested in Option 2. Marketing data was further examined for some of the suggested consolidated marketing areas to determine the most appropriate configurations of the consolidated areas. Primary criteria continues to be the seven used in the two earlier reports on order consolidation. As a result of further analysis, the configurations of the Northeast, Mideast, Southeast, Upper Midwest and Central areas have changed significantly from those suggested in Option 2, and minor changes have been made to the Appalachian area. The modifications for these areas from the revised preliminary report (Option 2) are as follows: NORTHEAST—Minus some previously suggested area to be included in the Northeast (the southern tier of 3 western New York counties and Pennsylvania Milk Marketing Board Areas 2 and 3); APPALACHIAN—Minus five Kentucky counties that were part of the former

Paducah order area, now suggested to be in the Southeast market; SOUTHEAST—Addition of 11 northwest Arkansas and 22 entire and 1 partial Missouri counties currently part of the Southwest Plains Federal order, 6 Missouri counties currently part of the Southern Illinois-Eastern Missouri Federal order, 16 currently unregulated southeast Missouri counties, 20 currently unregulated Kentucky counties (were suggested to be in the Appalachian market); MIDEAST—Minus the current Pennsylvania Milk Marketing Board Area 6 and two southwestern New York counties, all currently non-Federally regulated; UPPER MIDWEST—Minus the Iowa, Eastern South Dakota, Nebraska-Western Iowa Federal order areas; CENTRAL—Addition of the Iowa, Eastern South Dakota, Nebraska-Western Iowa Federal order areas, 68 currently-unregulated counties in Kansas, Missouri, Illinois, Iowa, Nebraska and Colorado, and minus 11 northwest Arkansas and 22 entire and 1 partial Missouri counties currently part of the Southwest Plains Federal order, 6 Missouri counties currently part of the Southern Illinois-Eastern Missouri Federal order, and 16 currently unregulated southeast Missouri counties. The FLORIDA, SOUTHWEST, ARIZONA-LAS VEGAS, WESTERN and PACIFIC NORTHWEST marketing areas did not change from the revised preliminary report.

Based on the WAUV calculations shown in the previous table, utilization rate changes due to consolidation could affect producer prices. The column labeled ''Proposed Rule'' shows the WAUV for the consolidated order and each of the current orders suggested in this proposed rule.

In the Northeast market, for producers currently affiliated with the New York-New Jersey order, the proposed option would have positive impacts on their WAUV, while New England and Middle Atlantic producers would be negatively impacted. In the Appalachian market, Carolina producers should expect some negative impacts due to consolidation, while Tennessee Valley and Louisville-Lexington-Evansville producers would experience positive effects from this consolidation. In the Florida market, Upper Florida producers would gain while Tampa Bay and Southeastern Florida producers would have a negative impact resulting from this consolidation. With the addition of marketing area to the Southeast, the WAUV for Southeast producers may be expected to be positively impacted. In the Mideast market, producers affiliated with the Ohio Valley and Southern Michigan Federal orders would probably see increases in blend prices due to this consolidation, while producers affiliated with the Eastern Ohio-Western Pennsylvania, Michigan Upper Peninsula, and Indiana Federal orders would see decreases. In the Upper Midwest market, the Upper Midwest producers should see slight increases, while Chicago Regional producers would have no impact due to this consolidation. In the Central market, producers with the Nebraska-Western Iowa and Southwest Plains markets would see increases, producers affiliated with Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Eastern South Dakota, and Iowa markets may see decreases, and Eastern Colorado producers would see no impact. In the Southwest market, producers affiliated with New Mexico-West Texas would see increases due to this consolidation while Texas producers would see decreases. Producers in the Arizona-Las Vegas market may receive a positive impact on producer prices due to an additional handler regulated in this order area. In the Western market, Southwestern Idaho-Eastern Oregon producers would see increases but Western Colorado and Great Basin producers would see decreases. The Pacific Northwest market remains virtually the same as it does currently and thus, no or little impact on producer prices would be expected.

Of approximately 83,000 dairy producers delivering milk to handlers regulated under the milk orders, about 80,000 are considered to be small businesses under the production guideline of less than 326,000 pounds per month. The additional estimated 13 percent of Pennsylvania's total milk production represented by the Pennsylvania Milk Marketing Board which would have been added in Option 2, would not be included under this option.

As stated above, handlers are impacted more significantly by class prices and minimum prices than by expected utilization changes resulting from consolidation. Of the 337 plants expected to be fully regulated under this 11-market proposed configuration, 164 plants are estimated to be small businesses on the basis of fewer than 500 employees.

Based on the comments received in response to the revised preliminary report (Option 2) it has been determined that consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed or equal those that would be established under Federal milk order regulation. Such regulation would have the effect of reducing returns to producers already included under State regulation without significantly affecting prices paid by handlers who compete with Federally-regulated handlers.

In an effort to avoid extending Federal regulation to handlers whose primary sales areas are outside current Federal order marketing areas, but who already are subject to similar minimum uniform pricing under State regulation, the in-area Class I disposition percentage portion of the pool distributing plant definition is proposed to be 25 percent for the Northeast order and 30 percent for the Mideast order, instead of the 10 or 15 percent used in the other nine consolidated order areas. It is estimated that five plants in Pennsylvania, Maryland and Virginia that would have been fully regulated using 15 percent would remain partially regulated, as they currently are, using 25 and 30 percent, respectively. At least three of these five handlers meet the small business criteria.

Exempt Plants

Options 2 and 3 both recognize the Identical Provisions Committee [14] determination than a handler distributing less than 150,000 pounds per month of fluid milk products does not have a significant competitive effect on the market, and that handlers of such size should, therefore, be exempt from the pricing and pooling provisions of the orders. The level of route disposition required before an exempt plant becomes regulated varies in the current orders. As recommended, any plant with route disposition during the month of 150,000 pounds or less would be exempt in the consolidated orders. This limit reflects the maximum amount of fluid milk products allowed by an exempt plant in any current Federal milk order and ensures plants that are currently exempt from regulation would remain so. Under this proposed rule, it is expected that 36 distributing plants that otherwise would be identified as fully regulated plants are identified as exempt plants. Therefore under this provision, these plants would not be subject to the pricing and pooling provisions of their respective order.

Although 150,000 pounds of fluid milk disposition per month may

[14] The Identical Provisions Committee was established in May 1996 to address uniformity in order provisions during the Federal order reform process. This committee and others established are described further in the ''Background'' portion of this proposed rule.

represent a level at which exempting a distributing plant could be expected not to have a serious detrimental impact on the ability of a Federal milk order to provide for uniform pricing to handlers and producers, it would be quite difficult to select a higher level of exemption without compromising the purposes of the regulation. The under-500-employee definition of a small business assures that nearly all single-plant milk handlers would qualify as a small business. Many of the ''small'' businesses may be among the largest competitors in a particular market.

In addition, numbers of employees could be expected to vary greatly with the nature of a plant's operation. For instance, the number of persons employed by two plants processing and distributing equal volumes of fluid milk products could be very different if one plant contracts out its producer milk hauling, laboratory operations and packaged product distribution, while the other plant performs all of these operations with its own employees. For this reason alone, it would be inappropriate to exempt handlers from regulation, or to impose differing regulatory burdens, on the basis of their size beyond the minimal size determined to be less than a significant competitive force in the market.

Many current Federal orders also provide regulatory exemption for a plant operated by a state or Federal government agency. For example, some states have dairy farm and plant operations that provide milk for their prison populations. As recommended, regulatory exemption would be continued under the consolidated orders unless pool plant status is desired. Additionally, regulatory exemption is intended to include colleges, universities and charitable institutions because these institutions generally handle fluid milk products internally and have little or no impact in the mainstream commercial market. However, in the event that these entities do distribute fluid milk through commercial channels, route sales by such entities, including government agencies, would be monitored to determine if Federal regulations should apply. Under this proposed rule, it is expected that 18 distributing plants would be identified as exempt based on their institutional status.

Producer-handlers

Also exempt from full regulation would be those entities that operate as both a producer and a handler. A primary basis for exempting producer-handlers from the pricing and pooling provisions of a milk order is that these entities are customarily small businesses that operate essentially in a self-sufficient manner. During August 1997, 111 producer-handlers submitted reports under the Federal milk marketing order program.

Basic Formula Price Options

A number of options for determining a basic formula price were considered and analyzed in the process of developing the proposed basic formula price (BFP). In addition to the proposed method of pricing components based on their value in manufactured products, other options examined, by both the Agricultural Marketing Service's Dairy Division Basic Formula Price Replacement Committee and by the University Study Committee (USC), led by Dr. Ronald D. Knutson of Texas A & M University, were: economic formulas, futures markets, cost of production, competitive pay pricing, and pricing differentials only.

Descriptions of the two Committees' analyses, and results of their work are included in ''A Preliminary Report on Alternatives to the Basic Formula Price,'' published in April 1997 by the Basic Formula Price Committee, Dairy Division, AMS; and the following reports from the Agricultural and Food Policy Center, Texas A&M University System:

''An Economic Evaluation of Basic Formula Price (BFP) Alternatives,'' AFPC Working Paper 97–2, June 1997.

''Evaluation of 'Final' Four Basic Formula Price Options,'' AFPC Working Paper 97–9, August 1997.[15]

The primary criterion used by the Dairy Division BFP Committee was that any replacement BFP option reflect the supply of and demand for milk used in manufactured dairy products. At the same time, one of the USC's critical criteria for a replacement BFP was that it reliably reflect market conditions for all manufactured products.

In trying to determine the most appropriate replacement for the current BFP, which uses a survey of prices paid by manufacturing plants for non-Grade A milk updated by a product price formula, the goal of both groups was a market-based alternative. The BFP Committee measured the extent to which each pricing option met its primary goal by tracking the options against the current BFP for a period of prior months, on the basis of the assumption that the current BFP successfully reflects the supply and demand for milk used in manufactured products. The USC Committee used an econometric procedure to test the ability of the alternatives they considered to reflect supply and demand.

To the extent the goal of identifying a BFP that reflects the value of milk used in manufactured products is capable of attainment, all market participants would be affected by the BFP replacement in the same manner as if they were operating in a free market, with no external impacts caused by regulation. To the extent the goal is achieved, then, there would be no uneven impact on market participants on the basis of size. All market participants, (handlers, producers and consumers), would be affected in the same manner as if there were no regulation. However, the existence of minimum order pricing serves to assure that small handlers pay no more for their milk than larger entities (unless the market allows higher prices to be exacted from small buyers), and that small producers receive the same minimum uniform price for the milk or components of milk they produce as large producers. Consumers can be assured that the prices generally charged for dairy products are prices that reflect, as closely as possible, the forces of supply and demand in the market.

Of the options considered and analyzed, both groups studying the issue determined that the option of pricing components of milk according to their value in manufactured products, as reflected by the sales prices of those products, best approximates the intersection of supply and demand for milk used in manufactured dairy products.

Manufacturing Allowances

Make allowances or manufacturing allowances, one of the factors incorporated in the formulas for determining component values, may reflect more closely the manufacturing costs of large firms than those of small firms. These manufacturing costs would be used to adjust the sales prices of dairy products to the value of milk purchased to make the products. To the extent these allowances fail to reflect the full cost of manufacturing, they may require handlers to pay more for milk than they can realize from the sale of their products. On the other hand, if the manufacturing allowances more than cover the cost of manufacturing, handlers may be assured of extra margins.

Although it may appear that the use of make allowances in the computation

[15] These reports can be obtained from the Agricultural and Food Policy Center, Department of Agricultural Economics, Texas A&M University, College Station, Texas 77843–2124, telephone (409) 845–5913 or on the Internet at http://AFPC1.TAMU.EDU.

of component prices would advantage large processors because of possible economies of scale, these economies exist regardless of whether they are recognized in price computations. If the assumption is made that economies of scale exist in dairy plants and that large plants are more efficient than small plants, a manufacturing allowance that fully covers a small handler's cost of making products would merely increase the profit margin of its larger competitors. At the same time, producers unfairly would be required to subsidize the manufacturing costs of handlers who use their milk, and consumers would pay more for their dairy products than the costs of production and processing would justify.

An attempt has been made, using Cornell University studies of manufacturing costs at a number of manufacturing plants distributed around the U.S., to arrive at economically defensible make allowances. Since it is difficult to distinguish the differential effects of market-based component pricing on small and large firms engaged in manufacturing dairy products, reliance would be placed on industry participants to comment on these facets of the proposed BFP replacement.

Impact of Multiple Component Pricing Provisions on Small Entities

Seven of the eleven proposed orders provide for milk to be paid for on the basis of its components (multiple component pricing, or MCP). Five of the seven MCP orders also provide for milk values to be adjusted according to the somatic cell count of producer milk. The equipment needed for testing milk for its component content can be very expensive to purchase, and requires highly-skilled personnel to maintain and operate. The cost of infra-red analyzers ranges from just under $100,000 to $200,000. The infra-red machines that are used by most laboratories would test for total solids and somatic cells at the same time the butterfat and protein tests are done.

No new report forms are needed under multiple component pricing; however, some additional reporting is necessary to enable handlers' values of milk to be determined on the basis of components, and to assure that producers are paid correctly. For the market administrators to compute the producer price differential, handlers would need to supply additional information on their currently-required monthly reports of receipts and utilization. In addition to the product pounds and butterfat currently reported, handlers would be required to report pounds of protein, pounds of other solids, and, in 5 of the orders, somatic cell information. This data would be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as 9(c) handlers (that is, the cooperative acts as a handler); and, in some cases, receipts of bulk milk received by transfer or diversion.

Since producers would be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers must reflect the basis for such payment. Therefore the handler would be required to supply the producer not only with the information currently supplied, but also, (a) the pounds of butterfat, the pounds of protein, and the pounds of other solids contained in the producer's milk, as well as the producer's average somatic cell count, and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. Many handlers already report this additional information. It should be noted that handlers already are required to report information relative to pounds of production, butterfat and rates of payment for butterfat and hundredweight of milk to the appropriate Market Administrator.

Of over 74,000 producers whose milk was pooled in December 1996 under 23 of the current orders that would be part of consolidated orders providing for multiple component pricing, the milk of 52,500 of these producers was pooled under 13 current orders that have MCP. Handlers in these markets already have incurred the initial costs of testing milk for its component content, and have made the needed transition to reporting the component contents of milk receipts on their handler reports to the market administrators, and on their reports of what they have paid producers.

Of the remaining 21,750 producers who would be affected by MCP provisions under a Federal order (including an estimated 20,650 producers qualifying as small businesses), the milk of approximately 13,000, or 60 percent, currently is received by handlers who test or have the capability of testing for multiple components and, in many cases, somatic cells. Many of these handlers also report component results to the producers with their payments. Almost all of the producers whose milk currently is not being tested or paid for on the basis of components are located in the New England and New York-New Jersey marketing areas, which would be consolidated with the Middle Atlantic area into the proposed Northeast order.

Accommodation has been made to ameliorate handlers' expenses of testing producer milk for component content

As component pricing plans have been adopted under a number of the present Federal milk orders since 1988, the component testing needed to implement these pricing plans has been performed by the market administrators responsible for the administration of the orders involved for handlers who have not been equipped to make all of the determinations required under the amended orders. It has been made clear in the decisions under which these plans have been adopted that handlers who would find it unduly burdensome to obtain the equipment and personnel needed to accomplish the required testing may rely on the market administrators to verify or establish the tests under which producers are paid. As noted above, however, many handlers not now subject to MCP provisions under Federal orders have nevertheless already undertaken multiple component testing and payment programs.

Pricing Options

Several pricing options, as discussed below, were considered as replacements for the current Class I price structure. Five of the options were determined to have a negative impact on small businesses, albeit slight or significant. These options included relative use differentials, flat differentials, modified flat differentials, demand based differentials, and a decoupled baseline Class I price with adjustors. In addition to the impacts on small businesses, these options were not considered viable based on additional qualitative analysis contained in the findings and conclusions of the proposed rule.

Relative Use Differentials

The use of relative use differentials based on Class I utilizations was considered as an option for replacing the Class I price structure. Using this concept, the relative use Class I differential would equal $1.60 per hundredweight plus the relative use ratio times $1.00. A 25 percent limit would be applied so the new differential would not exceed 125 percent of the current differential nor fall to less than 75 percent of the current differential. A percentage limit was placed on the differential changes to temper adjustments based on market supply and demand conditions.

The advantages of the system are that it allows Class I differentials to adapt to

supply and demand conditions within a given marketing area based on changes in the utilization. However, because the differentials would be allowed to change independently from neighboring areas, serious problems arise with order-to-order alignment.

The next table illustrates the Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential has been calculated for each order, based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. This weighted average differential is not location specific for the consolidated order.

RELATIVE USE CLASS I DIFFERENTIALS IN PROPOSED ORDERS

[Based on October 1995 Data]

Proposed order [1]	Relative use ratio [2] (percent)	+ $1.60 = class I diff. ($/cwt)	Weighted average diff. ($/cwt) [3]	Maximum diff. range (75%–125%)	New diff ($/cwt)	Change in diff. ($/cwt)
Northeast	0.92	2.52	3.14	2.35–3.93	2.52	−0.62
Appalachian	4.60	6.20	2.79	2.09–3.49	3.49	0.70
Southeast	5.76	7.36	3.04	2.28–3.80	3.80	0.76
Florida	7.54	9.14	3.89	2.92–4.86	4.86	0.97
Mideast	1.26	2.86	1.91	1.43–2.39	2.39	0.48
Central	0.95	2.55	2.52	1.89–3.15	2.55	0.03
Up. Midwest	0.53	2.13	1.32	0.99–1.65	1.65	0.33
Southwest	0.93	2.53	3.01	2.26–3.76	2.53	−0.48
AZ-Las Vegas	1.04	2.64	2.46	1.85–3.08	2.64	0.18
Western	0.42	2.02	1.84	1.38–2.30	2.02	0.18
Pacific NW	0.55	2.15	1.90	1.43–2.38	2.15	0.25

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Relative use ratio = Class I ÷all other uses.
[3] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

The review of this option indicates that differentials would probably have a minimal impact on small businesses, both processors and producers. For a majority of the Federal order system, producers and processors would experience Class I price increases. However, due to offsetting factors impacts would be reduced.

Class I differentials are estimated to increase from $0.00 to $0.48 in the Central, Mideast, and Midwestern regions. Currently, over-order charges are significantly higher and would largely absorb these differential increases. Impacts on small producers and processors would be minimal.

The Northeastern marketing area could be affected significantly by the adoption of a relative use differential because of the decrease in Class I prices and because this area has a high concentration of small businesses, both producers and processors. There are approximately 18,860 small producers and 280 small processors located in this region. Processors would pay on average $0.62 less for Class I milk as compared to the current system. Producers would likely turn to over-order charges to try to make up for their lost revenue. If this were to occur, then small processors and producers would be placed at a competitive disadvantage to large businesses because often the small businesses do not maintain the resources needed to effectively negotiate for supplies of milk. However, historically this region has had difficulty maintaining a large over-order premium structure and assumptions are that this would continue. If so, then all producer income would decrease slightly possibly impacting the market's milk supplies.

Large increases in Class I differentials would occur in the orders located in the Southeast. There are approximately 4,000 small producers and 30 small handlers in the Florida and Southeast areas. Class I handlers would experience increased competition from lower cost handlers in nearby markets. This may have a greater impact on small processors because of their ability to compete based on available resources. Although higher differentials would be returned to producers through the Federal order uniform price, overall producers in the Southeast markets would probably not experience any significant gains from these increased differentials due to reduced over-order premiums being charged. However, this would benefit small producers who may not be able to negotiate as effectively for over-order prices.

The Southwest market is the other market to experience decreases in differentials. Approximately 1,400 small producers and 30 small handlers would be impacted by the decrease in Class I prices. Over-order charges currently are relatively small in this market and an attempt to increase the charges would likely occur. However, producer groups have had the same difficulty as the Northeast in maintaining an over-order structure. A $0.48 drop in the average differential in the Southwestern market would surely be felt by producers and accelerate the exodus of producers from the East Texas supply area, most likely smaller producers who may not have significant resources to adapt to the lowered prices or who would not be able to negotiate for higher over-order prices. Producers in New Mexico and West Texas would also be affected, but the impact may not be as severe.

Processors in this region may benefit from the decrease in Federal order prices. However, if there is an increase in the over-order prices that the processors must pay, then the amount gained from the decrease would be lessened. In fact, if over-order pricing is implemented then small processors may be at a disadvantage because they may not be able to compete for milk beyond the reduction in Class I prices.

In the Western regions, Class I differentials are expected to increase slightly. Over-order charges in these markets are not as great as in the Midwestern markets and would probably be unable to totally absorb the Class I price increase. Producer pay

prices and Class I handler costs would increase slightly. All producers would benefit from the price increase, including about 690 small producers. However, about 50 small processors may be at a disadvantage. Small processors may not have the additional revenue necessary to adapt to the $0.18 to $0.25 per hundredweight increase in Class I prices.

Because of the limited effect of overall Class I differential changes within individual orders, relative use differentials would have a minimal effect on small businesses, both producers and processors. Areas that have decreases in Class I differentials would have a minimal negative impact on producer pay prices. Over 20,000 producers, or about 95 percent of all producers, in these regions are categorized as small businesses. On the other hand, handlers in areas with larger increases in the Class I differentials would experience increased competition from lower cost regions. Location advantages of some small handlers would disappear while others emerge. Handler equity in these competing markets could erode placing some small handlers under greater risk. Approximately 300 handlers in the Northeast and Southwest markets are categorized as small handlers, about half of the total number of handlers.

However, the adoption of a relative use differential could have a significant impact on small businesses, both producers and processors that are located in adjacent orders. Because Class I prices would be able to change independently from each other, significant Class I price variances may begin to exist. As Class I utilization changes, these changes may be significant. This lack of alignment between bordering orders would increase competition in areas where Class I price differences are significant having a greater impact on small businesses.

Flat Differentials

The use of flat differentials was considered as an option for replacing the Class I price structure. Under this system, all Class I differentials would be established at $1.60 regardless of the location. Establishing the differentials at an equal level throughout the United States does not recognize the location value associated with milk. Because this value would not be reflected in the minimum price under the Federal order program, flat differentials could affect small businesses, as shown by the following table.

FLAT CLASS I DIFFERENTIALS IN PROPOSED ORDERS

(Based on October 1995 Data)

Suggested consolidated order [1]	Flat differential ($/cwt)	Weighted average differential ($/cwt) [2]	Change ($/cwt)
Northeast	1.60	3.14	−1.54
Appalachian	1.60	2.79	−1.19
Southeast	1.60	3.04	−1.44
Florida	1.60	3.89	−2.29
Mideast	1.60	1.91	−0.31
Central	1.60	2.52	−0.92
Upper Midwest	1.60	1.32	0.28
Southwest	1.60	3.01	−1.41
AZ-Las Vegas	1.60	2.46	−0.86
Western	1.60	1.84	−0.24
Pacific NW	1.60	1.90	−0.30

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

The review of this option indicates that flat differentials could change the competitive relationship between large and small processors and producers. Large processors could have a competitive advantage over small processors in negotiating with producers for supplies of milk at prices above the established minimum price. Likewise, large producers could have a better bargaining position when competing with small producers to supply a processor.

In all areas of the United States, with the exception of the Upper Midwest, producers and processors would experience significant decreases in the Class I price. The largest decrease would occur in the Florida order with the Class I price decreasing $2.29 per hundredweight. This would result in approximately a $2.06 decrease in the uniform price paid to producers. Although over-order pricing has been effective in Florida, it is unlikely that the over-order prices would be able to offset this total decrease. Data regarding over-order pricing are not published but an indication of the level is provided by comparing the Federal order Class I milk price to the announced cooperatives Class I price. In Miami, Florida, during 1996, the cooperatives announced price averaged $2.25 per hundredweight higher than the Southeastern Florida Federal order Class I price.[16]

Not only could producers suffer from a loss in the value of the Class I price reflected under the order, but inequity among processors could occur in the marketplace. More of the value of milk would be negotiated above the Federal order minimum. Because this value is outside of the regulatory minimum price, there is little that would ensure that processors are paying similar prices for milk. This could impact small processors more than larger processors because of their lack of resources needed to negotiate and obtain needed supplies of milk.

The results of implementing flat Class I pricing would be the same throughout the United States where decreases occur. Areas where flat differentials would have the greatest impact are located in the Northeast, Southeast, Southwest, and Central areas. Approximately 34,400 small producers and 480 small handlers are located in these regions of the United States.

[16] Table 35—1996 Annual Average Announced Cooperative Class I Prices in Selected Cities, Dairy Market Statistics, 1996 Annual Summary, USDA, AMS.

The Upper Midwest would experience a slight increase in Class I prices if a $1.60 flat differential were implemented. The Class I price would increase by $0.19 per hundredweight which would result in about a $0.04 increase in the uniform price. Although there are a substantial number of small producers located in this region, approximately 28,400, this increase would not impact the price that producers in this area receive for their milk. Over-order pricing is predominant in this region. Next to Florida, the Upper Midwest region has the highest announced cooperative Class I prices, between $1.19 to $1.79 [17] higher than the Federal order Class I price. Because the over-order prices are substantial in this area, the $0.19 increase in Class I prices would likely be offset by a slight decrease in over-order prices, thus the 180 small handlers and the 28,400 small producers would likely not see any increase in overall prices.

Although the use of flat differentials would require no additional reporting, recordkeeping, or compliance requirements it is not being considered as a viable replacement for the current Class I price surface because, in addition to other reasons addressed in the proposed rule, of the impact that flat differentials could have on a substantial number of small businesses both producers and processors. Flat differentials of $1.60 per hundredweight would negatively impact more than 52,000 total small businesses.

Modified Flat Differentials

The use of modified flat differentials was considered as an option for replacing the Class I price structure. This option is based on the flat Class I price concept modified by the relative use price concept. Under this system, an equal differential would be established in all orders and then, in orders that were determined to be deficit based on a Class I utilization percentage, an additional value would be added to the flat differential. Deficit orders were deemed to have a Class I utilization greater than 70 percent. If Class I use exceeds 70 percent, the Class I differential in an order would be $2.00 + $0.075* (Class I use percent—70 percent). This option assumes that markets with Class I use equal to or below 70 percent have an adequate reserve supply of milk to meet fluid needs and that markets with Class I use about 70 percent require additional milk supplies to meet fluid demand.[18]

As with the relative use option (Option 2), the estimated Class I differentials presented in the table are not entirely location-specific within the consolidated order. To provide a basis for comparison, a weighted average differential has been calculated based on current differentials for the consolidated orders using October 1995 data, as shown in the following table. These differentials are also not location-specific.

MODIFIED FLAT CLASS I DIFFERENTIALS IN PROPOSED ORDERS

[Based on October 1995 Data]

Proposed order [1]	Class I use (percent)	Mod. flat diff. ($/cwt)	Weighted avg diff.[2] ($/cwt)	Change ($/cwt)
Northeast	47.9	2.00	3.14	−1.14
Appalachian	81.5	2.86	2.79	0.07
Southeast	85.2	3.07	3.04	0.03
Florida	88.3	3.37	3.89	−0.52
Mideast	55.8	2.00	1.91	0.09
Central	48.8	2.00	2.52	−0.52
Upper Midwest	34.5	2.00	1.32	0.68
Southwest	48.1	2.00	3.01	−1.01
AZ-Las Vegas	48.9	2.00	2.46	−0.46
Western	29.6	2.00	1.84	0.16
Pacific NW	35.6	2.00	1.90	0.10

[1] Based on the eleven proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Like flat differentials, modified flat differentials do not recognize location values associated with milk. Because this value would not be reflected in the minimum price under the Federal order program, modified flat differentials could have a dramatic effect on small businesses because modified flat differentials would change the competitive relationship between large and small processors and producers. Just as with flat differentials, large processors could maintain a competitive advantage over small processors in negotiating with producers for supplies of milk at prices above the established minimum price. Likewise, large producers might retain strong bargaining positions when competing with small producers to supply a processor.

Under this modified flat differential, only three orders would meet the necessary requirement to have a differential established above the $2.00 flat portion, Appalachian, Southeast, and Florida. Basically, this system would be equivalent to adopting a flat Class I pricing system in most of the United States. Although in this example the impacts appear to be different, with five of the proposed orders reflecting differential increases, this is only because the flat portion of the Class I differential is established at $2.00 instead of $1.60.

As with the flat differential, the Upper Midwest producers and processors would experience Federal order Class I price increases. In this example, the estimated price would increase by $0.59 which would return approximately $0.12 to the producers in a higher uniform price. The largest decrease would occur in the Southwest and Northeast orders with a Class I price decrease of $1.01 and $1.13, respectively. The use of a modifier to the flat differential based on the Class I utilization would help to mitigate the price decreases in the Southeast orders.

[17] Table 35—1996 Annual Average Announced Cooperative Class I Prices in Selected Cities, Dairy Market Statistics, 1996 Annual Summary, USDA, AMS.

[18] The 70 percent figure was merely selected for illustrative purposes and no analysis has been conducted to determine if this is an appropriate percentage.

With the use of the modifier, the three Southeast orders would not all experience decreases in Class I prices. The Appalachian order would have a $0.07 increase while the Florida order and the Southeast order would lose $0.52 and $0.01, respectively. Ultimately about 4,000 producers in the Southeast and Florida areas would experience a decline in the Class I price received under Federal orders, while nearly 4,200 producers in the Appalachian area would find their Class I price increasing.

The competitive position among processors could become altered under modified Class I differentials. More of the value of milk would be negotiated above the Federal order minimum. Because this value is outside of the regulatory minimum price, nothing would ensure that processors are paying similar prices for milk. This could impact small processors more than larger processors if the smaller processors lack the resources needed to negotiate and obtain needed supplies of milk. In addition, processors in areas where the modifier becomes effective would be placed at a disadvantage because the regulated minimum price would be allowed to fluctuate and their minimum costs would not be the same as those with the flat differential or where the Class I price is allowed to adjust. The use of $2.00 per hundredweight modified flat differentials would require no additional reporting, recordkeeping, or compliance requirements. However, up to 34,000 small businesses could be impacted by this proposal.

Demand Based Differentials

The use of demand based differentials was also considered as an option for the Class I price structure. Under this system, an equal differential would be applied to all orders, and in defined demand centers, an additional component would be added to reflect the costs of transporting milk from reserve supply areas to demand centers. This option would increase the regulatory burden on all businesses, both small and large, through additional reporting, recordkeeping, and compliance requirements. Small processors could be disadvantaged under this option.

This proposal involves establishing a fluid supply area for each market from which milk production around the major bottler locations is procured and a reserve supply area would be established that would be outside the fluid supply area from which milk production is sometimes supplied to fluid handlers in the major fluid bottling locations. The Class I differential for the reserve area under this proposal would be set at $1.00 per hundredweight. For fluid supply areas, the differential would be $1.00 plus transportation costs from the reserve area to the fluid demand area. Monies paid by Class I handlers through the second part of the Class I differential would be used to fund the order's system of transportation credits and balancing payments. These transportation credits and balancing payments would be provided to organizations that supply the order's fluid market.

To encourage movement of the nearest milk supply for fluid use, two restrictions would be needed. First, a handler's total transportation credits would be limited to the variable amount paid in by the handler for transportation. Second, a handler's total transportation credit would not exceed 80 percent of the handler's transportation bill on each Class I shipment or 2.8 cents per hundredweight per 10 miles (28 cents per 100 miles), whichever is less. Any residual left after paying transportation credits would be added to the $1.00 differential and paid to all producers in the pool.

The following table contains a few examples of differentials that would apply to specific locations. These differentials are based on the farthest distance that milk for fluid use is transported, using the USDSS [19] model to solve for each consumption point individually as a guide for establishing the differentials.

DEMAND-BASED CLASS I DIFFERENTIALS FOR SELECTED CITIES

Selected location	Current differential ($/cwt)	Demand-based differential ($/cwt)	Change ($/cwt)
Miami, FL	4.18	3.88	−0.30
Tampa, FL	3.88	2.05	−1.83
Orlando, FL	3.88	3.08	−0.80
New Orleans, LA	3.65	1.28	−2.37
Atlanta, GA	3.08	2.38	−0.70
New York City, NY	3.14	1.80	−1.34
Chicago, IL	1.40	1.49	−0.09
Minneapolis, MN	1.20	1.11	−0.09
Phoenix, AZ	2.52	1.00	−1.52
Dallas, TX	3.16	1.40	−1.76
Denver, CO	2.73	1.19	−1.54
Portland, OR	1.90	1.13	−0.77
Seattle, WA	1.90	1.31	−0.59
Boise, ID	1.50	1.06	−0.44

The review of this option from a producer viewpoint reveals that a demand based differential system is comparable to a flat differential option. Producers would only be ensured that the $1.00 portion of the differential would be returned through the blend price. Ultimately, this option could result in income losses for all producers, both large and small. Although additional money is generated by the demand based differential above the $1.00, this additional money would be used to fund transportation costs associated with servicing the Class I market. The differentials are established at a lower level that would negatively impact all 82,900 producers because of the decrease in the actual value of Class I revenue that is reflected in the Federal order minimum price. Thus, the disadvantages that producers, especially small producers, might experience under a flat or modified flat differential

[19] US Dairy Sector Simulator model developed and run by Cornell University to solve for the geographical spatial relationships of milk for particular uses of milk, primarily fluid.

system are applicable to demand based differentials.

Like the two previous options, small handlers also could be disadvantaged, because less of the actual value of Class I milk is reflected under the regulated price which may lead to both processors and producer inequity. The potential negative effects discussed under flat differentials and modified flat differentials also apply to demand based differentials. In addition, the adoption of demand-based differentials would result in a significant increase in reporting, recordkeeping, and compliance activities which would impact all 1,450 handlers, but is likely to be a greater burden on small handlers. To ensure reimbursement for a portion or all of a processors handling charges, complete and detailed transportation records must be kept. New forms would be required for submission, along with copies of all transportation invoices. The additional information could require more personnel, training, and technology to automatically keep track of such information. While the costs associated with this degree of recordkeeping are not available, they could be significant enough to disadvantage small businesses.

Because the use of demand-based differentials could result in a significant increase in regulatory burdens to all handlers as well as inequity among producers and processors, demand-based differentials are not considered a viable alternative.

Decoupled Baseline Class I Price with Adjustors

The use of a decoupled baseline Class I price with adjustors was considered as an option for replacing the Class I price structure. Under this system, the Class I price would be decoupled from the basic formula price, or the Class I price mover, and a base price would be established at a specified level. Adjustments to this base price would be made utilizing a supply/demand adjustor and possibly a cost of production indicator.

Under this option for Class I purposes the base price would be floored at $13.63 per hundredweight, the November 1995 to October 1996 average BFP. This price level would be used to establish Class I prices using current differentials. A supply/demand adjustor of $0.12 per hundredweight for each 2 percent change in the rolling average utilization would be used to change prices in each of the orders to reflect long-term trends. For example, a Class I utilization change from 44 percent to 46 percent in a market would result in a $0.12 per hundredweight gain in the market's Class I differential. Once the utilization level changes, the new utilization rate becomes the base for future changes. Thus, if a market falls from 44 percent to 42 percent, the new base for comparing a 2-percentage point change up or down is 42 percent.

In addition to the supply/demand adjustor, a cost of production indicator would be developed whereby Class I prices would be increased in a timely manner when input costs to dairy farmers are increasing. One such economic indicator might be feed costs. While one such adjustor was developed and submitted, it was received too late to be included in this analysis.

The following table illustrates the initial Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential has been calculated for each order based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. The weighted average differential is not location-specific for the consolidated order.

Initially the differentials would be the same. However, as this option impacts production (supply) and use (demand), there would be a change in the utilization percentage, thereby causing the differentials to vary.

INITIAL CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON 1995 DATA UNDER DECOUPLED BASELINE CLASS I PRICE WITH ADJUSTORS SYSTEM

Proposed order	Weighted average differential ($/cwt) [1]	Initial class I differential ($/cwt)	Change in differential ($/cwt)
Northeast	3.14	3.14	0.00
Appalachian	2.79	2.79	0.00
Southeast	3.04	3.04	0.00
Florida	3.89	3.89	0.00
Mideast	1.91	1.91	0.00
Central	2.52	2.52	0.00
Up Midwest	1.32	1.32	0.00
Southwest	3.01	3.01	0.00
AZ-Las Vegas	2.46	2.46	0.00
Western	1.84	1.84	0.00
Pacific NW	1.90	1.90	0.00

[1] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

The review of this option indicates that the decoupled baseline Class I price with adjustors would create some disruption in inter-market price alignment because Class I differentials would be allowed to adjust independently from each other and may have a serious impact on producers and processors, particularly small producers and processors. If Class I differentials are allowed to adjust frequently, price alignments established between and among markets would disappear causing inequity among competing handlers. It is this inequity amongst handlers that would have a significant impact on a small business's ability to compete in the marketplace.

Analysis completed by the multi-regional ERS model [20] indicates that the increase in prices experienced would

[20] Economic Research Service multi-regional model of the dairy industry.

not be sustainable. The results of the model analysis indicate that the higher floored Class I prices would impact the all milk price and after 3 years, producers would begin experiencing a decrease in the revenue initially generated by this option. This would occur because the higher blend prices (caused by higher Class I prices) would stimulate milk production which would then lead to lower manufacturing prices. Because it is the blend price that is paid to producers, the increase in the Class I prices would not be enough to offset the decrease in prices of the other classes of use and the changes in utilization which would affect the differential levels.

Initially Class I differentials would not change however, Class I prices would increase because of the inclusion of a higher floor price. With the use of a floor, the variability in Class I prices would be moderated. However, the use of the floor price may impact the 79,600 smaller producers differently than the 8,400 larger producers because the smaller producers may not have the necessary financial resources to endure such a transition.

The Proposed Class I Price Options

The options proposed in this rule are a result of extensive review of the current marketing structure and other pertinent information. Extensive outreach, as explained previously, resulted in substantial input from the public. After gathering the necessary information, two options were developed and are advanced in this proposed regulation as viable Class I price structures.

Currently, the Class I price structure recognizes that milk has value by location. By recognizing that milk has value by location, small businesses are placed more on the same competitive footing as large businesses in the minimum prices they pay for milk. The use of either location-specific differentials or relative-value differentials would provide the necessary recognition of the location value of milk but at different levels.

Location-Specific Differentials (Option 1A)

This option would establish a nationally coordinated system of location-specific Class I price differentials reflecting the relative economic value of milk by location. An important feature of the option is including location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of defined milk marketing area boundaries or order pooling provisions. A basic premise of this option is that the value of milk varies according to location across the United States.

The level of the location-specific differentials proposed in this regulation are such that small businesses would experience minimal impacts if the regulations were implemented. The differentials are based on economic model results,[21] current marketing conditions, and the costs of obtaining alternative supplies of milk. Since a price is established for every county under this option, the following table sets forth examples of adjusted differentials at selected cities. Map 2 and General Provisions § 1000.52, as contained in the discussion on price structure, set forth the location adjusted differentials in every county.

COMPARATIVE LOCATION-SPECIFIC CLASS I DIFFERENTIALS AT SELECTED CITIES

City	Class I differential		Difference
	Current	Loc.-specific diff	
	Dollars Per Hundredweight		
New York City, NY	3.14	3.15	.01
Charlotte, NC	3.08	3.10	.02
Atlanta, GA	3.08	3.10	.02
Tampa, FL	3.88	4.00	.12
Cleveland, OH	2.00	2.00	.00
Kansas City, MO	1.92	2.00	.08
Minneapolis, MN	1.20	1.70	.50
Chicago, IL	1.40	1.80	.40
Dallas, TX	3.16	3.00	(.16)
Salt Lake City, UT	1.90	1.90	.00
Phoenix, AZ	2.52	2.35	(.17)
Seattle, WA	1.90	1.90	.00

Other than in the southwestern portions of the United States, this proposed option would have little impact on most producers both large and small. Likewise, processors should not experience any substantial changes in their abilities to compete for milk supplies. In fact, producers and processors should experience improvements because location-specific differentials provide improvements in areas under the current system that are not as well aligned. In addition processors would experience improvements in competing for milk because the price is established for each county regardless of where the milk is pooled. Because more of the actual value of Class I milk is reflected in the minimum regulated price, both small producers and processors can be assured of maintaining their ability to compete for a supply of milk.

A review of the six year average quantitative analysis conducted using the ERS model, assuming implementation of the consolidated orders, four classes of use, BFP as proposed, and using location-specific differentials would result in a decrease in Class I utilization but an increase of $0.03 in the all-milk price. Overall, this pricing option would result in $55 million increase in cash receipts.

The use of location-specific differentials would require no additional reporting, recordkeeping, or compliance requirements.

Relative-Value Specific Differentials (Option 1B).

A nationally coordinated system of relative-value specific Class I price differentials and adjustments that recognizes several low pricing areas is the second of two options proposed. These differentials rely on a least cost

[21] USDSS results using May and October 1996 data.

optimal solution from the USDSS Cornell model to develop a Class I price structure that is based on the most efficient assembly and shipment of milk and dairy products to meet all market demands for milk and its products. This option relies more on the market and the negotiating ability of processors and producers to generate higher prices when needed to provide the necessary incentive to move milk in order to satisfy demand.

Relative-value specific differentials are designed to move the dairy industry into more market-oriented environment by reducing reliance on Federal regulations in establishing actual Class I milk prices. By lowering the differentials in most of the United States, marketing practices would have a greater impact on Class I values in the form of over-order prices and only the producers who perform for the market would benefit. Hence, the adoption of relative-value differentials would move the dairy industry to rely on the negotiating abilities of both dairy farmers and processors to determine actual Class I values. Less efficient small businesses could be disadvantaged because of the lack of resources and knowledge necessary to effectively negotiate and maintain necessary price levels. Map 3 and General Provisions § 1000.52, as contained in the proposed rule, set forth the differentials in every county. The following table sets forth adjusted differentials at selected cities.

COMPARATIVE RELATIVE VALUE-SPECIFIC CLASS I DIFFERENTIALS AT SELECTED CITIES

City	Current diff.	Rel. value-specific diff.	Difference
	Dollars Per Hundredweight		
New York City, NY	3.14	2.07	(1.07)
Charlotte, NC	3.08	1.89	(1.19)
Atlanta, GA	3.08	2.46	(0.62)
Tampa Bay, FL	3.88	3.81	(0.07)
Cleveland, OH	2.00	1.54	(0.46)
Kansas City, MO	1.92	1.45	(0.47)
Minneapolis, MN	1.20	1.20	0.00
Chicago, IL	1.40	1.65	0.25
Dallas, TX	3.16	1.68	(1.48)
Salt Lake City, UT	1.90	1.08	(0.82)
Phoenix, AZ	2.52	1.14	(1.38)
Seattle, WA	1.90	1.00	(0.90)

The level of the relative value-specific differentials proposed in this rule are such that without a phase-in and a transitional program, small businesses, particularly producers, would experience significant economic impacts. Reviewing the change in Class I differentials on an individual order basis reveals that, with the exception of producers located in the Upper Midwest region, all producers would likely face reduced income due to lower minimum Class I prices if relative value-specific differentials were implemented immediately. Producers located in the Northeast and Southwest would experience the greatest decrease.

However, with the use of a phase-in together with one of the proposed transitional program alternatives, the impacts on small businesses could be mitigated during the transition period. The use of a transition program alternative would also allow both producers and processors the opportunity to adapt their marketing practices to adjust to a new level of Class I differentials. At the conclusion of the transition period, small businesses should have adjusted to lower regulated Class I differentials and be able to compete in a more market-oriented environment.

Three possible alternatives are presented for consideration of phasing in relative value-specific differentials to minimize the market disruption that may initially occur. Each utilizes the difference between the current differentials and the final relative value-specific differentials as the basis of the phase-in. This difference is then reduced by 20 percent during each phase-in year until the final relative value-specific differential price is achieved. The phase-in would begin in 1999 and be completed by 2003. The base differentials resulting from this transitional phase-in are set forth in the following table. The first alternative would be to phase-in to these differentials.

RELATIVE VALUE-SPECIFIC BASE DIFFERENTIALS FOR USE IN PHASE-IN PROGRAM OPTIONS

City	Current	Relative Value-Specific Base Differentials [1]				
		1999	2000	2001	2002	2003
	Dollars Per Hundredweight					
New York City	3.14	2.93	2.71	2.50	2.28	2.07
Charlotte	3.08	2.84	2.60	2.37	2.13	1.89
Atlanta	3.08	2.96	2.83	2.71	2.58	2.46
Tampa Bay	3.88	3.87	3.85	3.84	3.82	3.81
Cleveland	2.00	1.91	1.82	1.72	1.63	1.54
Kansas City	1.92	1.83	1.73	1.64	1.54	1.45
Minneapolis	1.20	1.20	1.20	1.20	1.20	1.20
Chicago	1.40	1.45	1.50	1.55	1.60	1.65
Dallas	3.16	2.86	2.57	2.27	1.98	1.68
Salt Lake City	1.90	1.74	1.57	1.41	1.24	1.08

RELATIVE VALUE-SPECIFIC BASE DIFFERENTIALS FOR USE IN PHASE-IN PROGRAM OPTIONS—Continued

City	Current	Relative Value-Specific Base Differentials [1]				
		1999	2000	2001	2002	2003
Phoenix	2.52	2.24	1.97	1.69	1.42	1.14
Seattle	1.90	1.72	1.54	1.36	1.18	1.00

[1] Base differential obtained by taking the difference between the current differential and the final relative value-specific differential (year 2003) and multiplying by 20 percent. This value is then subtracted from the current differential to yield the 1999 base differential. This value is then deducted from each consecutive year's value until the relative value-specific differentials are achieved in 2003.

The second alternative for phasing-in to the relative value-specific differentials would consist of adding a decreasing ''transitional payment'' to the base differential. It would be equal to the decrease in revenue that would occur with the implementation of relative value-specific differentials during the four years of transitioning to these differentials (1999 to 2002). During this four-year period, it is projected that $388.6 million would be removed from the Federal order system through lowered Class I differentials in most markets. To provide the industry an opportunity to prepare for this change, a transitional payment would be added to the base differential for Class I milk. The payment would be higher in the first year and gradually be reduced thereafter to result in implementation of the relative value-specific differentials by 2003. The additional payment would equal $0.55 per hundredweight in 1999, $0.35 per hundredweight in 2000, $0.20 per hundredweight in 2001, and $0.10 per hundredweight in 2002. This offsetting of revenue is designed to temporarily reduce the impacts of implementing relative value-specific differentials, thus allowing producers an opportunity to adjust their marketing practices to adapt to more market-determined Class I pricing. The following table sets forth the adjusted Class I differentials under this revenue-neutral phase-in option for selected cities.

RELATIVE VALUE-SPECIFIC CLASS I DIFFERENTIALS WITH REVENUE NEUTRAL PHASE-IN PAYMENTS

City	Current	Class I diff. with revenue neutral phase-in				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars Per Hundredweight					
New York City, NY	3.14	3.48	3.06	2.70	2.38	2.07
Charlotte, NC	3.08	3.39	2.95	2.57	2.23	1.89
Atlanta, GA	3.08	3.51	3.18	2.91	2.68	2.46
Tampa Bay, FL	3.88	4.42	4.20	4.04	3.92	3.81
Cleveland, OH	2.00	2.46	2.17	1.92	1.73	1.54
Kansas City, MO	1.92	2.38	2.08	1.84	1.64	1.45
Minneapolis, MN	1.20	1.75	1.55	1.40	1.30	1.20
Chicago, IL	1.40	2.00	1.85	1.75	1.70	1.65
Dallas, TX	3.16	3.41	2.92	2.47	2.08	1.68
Salt Lake City, UT	1.90	2.29	1.92	1.61	1.34	1.08
Phoenix, AZ	2.52	2.79	2.32	1.89	1.52	1.14
Seattle, WA	1.90	2.27	1.89	1.56	1.28	1.00

[1] 1999 applicable base differential from the previous table plus $0.55.
[2] 2000 applicable base differential from the previous table plus $0.35.
[3] 2001 applicable base differential from previous table plus $0.20.
[4] 2002 applicable base differential from the previous table plus $0.10.
[5] Final relative value-specific differentials.

The use of a revenue-neutral phase-in program would decrease the amount of cash receipts removed from the Federal order system from $388.6 million during the four-year phase-in to a gain of $47.8 million with the offsetting compensation implementation and then effective relative-value differentials. The decrease in the all-milk price paid to producers would also be reduced from $0.04 per cwt to $0.02 per cwt for the six-year average.

In fact, during the first year of offsetting compensation implementation the Class I price would increase for all but one of the Federal orders. On average, for all markets, the Class I price would increase $0.39 per cwt, the all-milk price would increase an average of $0.13 per cwt, and total cash receipts would be increased by $193.9 million compared with the baseline. Although these values would be decreased by the sixth year, with Class I prices projected to decrease for all Federal order an average of $0.51, the all-milk prices projected to decrease an average of $0.09, and total cash receipts projected to decrease $128.5 million, all producers would benefit from the lessening of the impacts of moving towards the relative-value differentials.

The third approach to phasing in the relative value-specific differentials would consist of adding a decreasing ''transitional payment'' to the base differential that would enhance revenue beyond what the Class I system would have generated during the four years of transitioning to the relative value-specific differentials. During this four-year period, it is projected that $878.4 million would be added to the Federal order system through the revenue-enhanced payment. This would result in a net increase of $489.8 million added to the system once the projected decrease resulting from the relative value-specific differentials during this period is deducted. This additional money would not only provide producers with an opportunity to prepare for and restructure their marketing practices to adapt to more

market determined Class I pricing but would also allow producers to obtain the education and resources necessary to become more effective in a more market-oriented environment. Again, the payment in the first year would be the highest with reductions occurring thereafter to result in implementation of the relative value-specific differentials by 2003. The additional payment would equal $1.10 per hundredweight of Class I in 1999, $0.70 per hundredweight in 2000, $0.40 per hundredweight in 2001, and $0.20 per hundredweight in 2002. The following table sets forth the adjusted Class I differentials under this revenue-enhancement phase-in option for selected cities.

RELATIVE VALUE-SPECIFIC CLASS I DIFFERENTIALS WITH REVENUE ENHANCEMENT PHASE-IN PAYMENTS

City	Current	Class I diff. with revenue enhancement				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars Per Hundredweight					
New York City, NY	3.14	4.03	3.41	2.90	2.48	2.07
Charlotte, NC	3.08	3.94	3.30	2.77	2.33	1.89
Atlanta, GA	3.08	4.06	3.53	3.11	2.78	2.46
Tampa Bay, FL	3.88	4.97	4.55	4.24	4.02	3.81
Cleveland, OH	2.00	3.01	2.52	2.12	1.83	1.54
Kansas City, MO	1.92	2.93	2.43	2.04	1.74	1.45
Minneapolis, MN	1.20	2.30	1.90	1.60	1.40	1.20
Chicago, IL	1.40	2.55	2.20	1.95	1.80	1.65
Dallas, TX	3.16	3.96	3.27	2.67	2.18	1.68
Salt Lake City, UT	1.90	2.84	2.27	1.81	1.44	1.08
Phoenix, AZ	2.52	3.34	2.67	2.09	1.62	1.14
Seattle, WA	1.90	2.82	2.24	1.76	1.38	1.00

[1] 1999 applicable base differential from the second previous table plus $1.10.
[2] 2000 applicable base differential from the second previous table plus $0.70.
[3] 2001 applicable base differential from the second previous plus $0.40.
[4] 2002 applicable base differential from the second previous plus $0.20.
[5] Final relative value-specific differentials.

The use of a revenue-enhancement phase-in program would increase the amount of cash receipts within the Federal order system by an average $34.9 million for a six-year period that includes implementing and then effective relative value-specific differentials. For the six-year average, the all-milk price would be unchanged. During the first year of implementation Class I prices would increase an average of $0.91 per cwt, all-milk prices would increase an average of $0.30 per cwt, and total cash receipts would increase $425 million. Although these values would decrease by the sixth year, with Class I prices down an average of $0.48, all-milk prices down $0.06, and total cash receipts down $80.5 million, all producers would benefit from the lessening of the impacts of moving towards relative value-specific differentials that are more market-oriented and less governmentally regulated.

Although producers would benefit from the initial increases in the Class I prices, this may put small businesses at a disadvantage because the cost of the raw product during the initial implementation years would be higher than the current regulated minimum prices. In areas such as the Upper Midwest and Southeast where over-order pricing has been effective in establishing the actual value of Class I milk, small processors may actually benefit from having more of the total cost of the milk reflected in the minimum price. This may increase the equity amongst the competing handlers in these regions. There are approximately 200 small handlers located in these two regions. About 600 small handlers located most other places in the United States may find that the increase in the Class I price could change their competitive relationships.

No additional recordkeeping, reporting, or compliance requirements would be necessary to implement the relative value-specific differentials discussed above.

The Proposed Classification Options

The classification of milk recommendations should not have a significant economic impact on a substantial number of small businesses. This proposed rule provides uniform milk classification provisions for the newly consolidated milk orders. The recommendations should improve reporting and accounting procedures for handlers and provide for greater market efficiencies.

Most of the changes regarding milk classification provisions proposed for the newly consolidated orders would simplify order language and remove obsolete language.

This proposed rule contains a modified fluid milk product definition and recommends that certain products be reclassified. The revised fluid milk product definition proposed for the new orders should provide more consistency in determining the classification of products. The inclusion of eggnog to the list of fluid milk products and the reclassification of cream cheese from Class III to Class II will cause a nominal increase in the cost of the finished product. However, these changes, which will be applicable to all handlers regulated under the new orders, should not have a significant impact on the retail price of these products. Although producers will benefit from these products being reclassified into higher utilization classes, the impact of the product classification changes on the blend price to producers will be marginal.

Another modification includes the reclassification of butter and whole milk powder from Class III to Class IV. This change merely places these market-clearing products in the new Class IV with nonfat dry milk. The change promotes market efficiency and should have a minimal impact on producers' blend prices.

One recommendation with possible small business implications concerns the treatment of milk used to produced bulk sweetened condensed milk/skim milk. Some commenters argued that the wide price difference that sometimes exists between the Class II price and the

Class III–A price has put manufacturers of sweetened condensed milk at a competitive disadvantage with manufacturers of nonfat dry milk, which can be substituted for bulk sweetened condensed milk and skim milk in some higher-valued products.

Although this proposed rule does not recommend a reclassification for milk used in bulk sweetened condensed milk, it does propose a change in the relationship between the Class II and IV prices which should eliminate the price disparity that now, at times, exists. As discussed in the ''Class III and Class III–A (i.e., Class IV) Milk'' section of this proposed rule, the proposed new Class II price will be equal to the Class IV price plus a 70-cent differential. The coupling of the Class II and Class IV prices will largely remove the incentive to substitute nonfat dry milk for bulk sweetened condensed milk.

The recommendations regarding shrinkage provisions should provide equity among handlers, improve market efficiencies, and facilitate accounting procedures. This proposed rule provides that shrinkage be assigned pro rata based on a handler's utilization. As discussed in the ''Shrinkage and Overage'' section of this proposed rule, this modification should result in a slight increase (i.e., one cent per cwt.) in the blend price paid to producers.

For the reasons stated above, the milk classification provisions proposed herein should have little economic and regulatory impact on small businesses.

Paperwork Reduction Act of 1995

The information collection requirements contained in this proposed rule previously were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0581–0032, through May 31, 1998. A notice of request for a three-year extension and revision of this currently approved information collection was published in the December 2, 1997, **Federal Register** (62 FR 63693), which invited comments from the public through February 2, 1998.

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by the OMB under the provisions of 44 U.S.C. Chapter 35. Following is a general description of the reporting and recordkeeping requirements, reasons for these requirements and an estimate of the annual burden on the dairy industry.

Title: Report Forms Under Federal Milk Orders (From Milk Handlers and Milk Marketing Cooperatives).

OMB Control Number: 0581–0032.

Expiration Date of Approval: May 31, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Federal Milk Marketing Order regulations authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), require milk handlers to report in detail the receipt and utilization of milk and milk products handled at each of their plants that are regulated by a Federal Order. The data are needed to administer the classified pricing system and related requirements of each Federal Order.

Rulemaking amendments to the orders must be approved in referenda conducted by the Secretary.

The terms of each of the current milk marketing orders are found at 7 CFR Parts 1001–1199; the terms of each of the proposed orders in this document are found at 7 CFR Parts 1001–1134. The authority for requiring reports is found at 8c (5) and (7) and 8d of the Act. The current authority for requiring records to be kept is found in the general provisions at 7 CFR Part 1000.5. In this proposed rule, this authority is found in the general provisions at 7 CFR Part 1000.27. The Act also provides for milk marketing agreements, but there are none in effect.

A Federal milk marketing order is a regulation issued by the Secretary of Agriculture that places certain requirements on the handling of milk in the area it covers. It requires that handlers of milk for a marketing area pay not less than certain minimum class prices according to how the milk is used. These prices are established under an order on the basis of evidence concerning the supply and demand conditions for milk in the market. A milk order requires that payments for milk be pooled and paid to individual farmers or cooperative associations of farmers of the basis on a uniform or average price. Thus, all eligible farmers (producers) share in the market wide use-values of milk by regulated handlers.

The Report of Receipts and Utilization and the Producer Payroll Report are completed by regulated milk handlers and milk marketing cooperatives and are the principal reporting forms needed to administer the 31 Federal milk marketing orders.

The orders also provide for the public dissemination of market statistics and other information for the benefit of producers, handlers, and consumers. Each milk order is administered by a market administrator who is an agent of the Secretary of Agriculture. Part of the market administrator's duties are to prescribe reports required of each handler, and to assure that handlers properly account for milk and milk products, and that such handlers pay producers and associations of producers according to the provisions of the order. The market administrator employs a staff that verifies handlers' reports by examining records to determine that the required payments are made to producers. Most reports required from handlers are submitted monthly to the market administrator. Confidentiality of information collection is assured through Section 608(d) of the Act, which imposes substantial penalties on anyone violating these confidentiality requirements.

The forms used by the market administrators are required by the respective milk orders that are authorized by the Act. The forms are authorized either in the general provisions (Part 1000) or in the sections of the respective orders. The forms are used to establish the quantity of milk received by handlers, the pooling status of handlers, the class-use of the milk used by the handler and the butterfat content and amounts of other components of the milk.

The frequency of performing these recordkeeping and reporting duties varies according to the form; the frequency ranges from ''on occasion'' to ''annually'' but ''monthly'' is perhaps most common. In general, most of the information that handlers report to the market administrator is readily available from normally maintained business records. Thus, the burden on handlers to complete these recordkeeping and reporting requirements is expected to be minimal. In addition, assistance in completing forms is readily available from market administrator offices.

Regarding the use of improved information technology to reduce the reporting and recordkeeping burden, the information requested is the minimum necessary to carry out the program. Since the type of information required to be collected and the certification and reporting of that information is required, no other alternative to the mode of information collection has been found. However, where possible, reported information is accepted using computer tapes or diskettes as alternatives to submitting the requested information on these report forms. Comments are requested to help assess the number of handlers using computers, word processors and other electronic equipment to create and store documents, as well as the extent to

which the Internet is used to exchange information.

We are confident that the information we collect does not duplicate information already available. Dairy Programs has an ongoing relationship with many organizations in the dairy industry that also respond to other governmental agencies. Thus, we are aware of the reports dairy industry organizations are submitting to other government agencies.

Information collection requirements have been reduced to the minimum requirements of the order, thus minimizing the burden on all handlers—those considered to be small as well as large entities. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. The primary source of data used to complete the forms is routinely used in all business transactions. Thus, the information collection and reporting burden is relatively small. Requiring the same reporting requirements for all handlers does not significantly disadvantage any handler that is smaller than industry average.

If the collection of this information were conducted less frequently, data needed to keep the Secretary informed concerning industry operations would not be available. Timing and frequency of the various reports are such to meet the needs of the industry and yet minimize the burden of the reporting public.

The collection of the required information is conducted in a manner consistent with guidelines in 5 CFR 1320.6. The orders require that the market administrator compute monthly minimum prices to producers based on monthly information. Without monthly information, the market administrator, for example, would not have the information to compute each monthly price, nor to know if handlers were paying producers on dates prescribed in the order, such as the advance payment for milk received the first 15 days of the month and the final payment which is payable after the end of the month. The Act imposes penalties for order violations, such as the failure to pay producers not later than prescribed dates. The orders require payments to and from the producer-settlement fund to be made monthly. Also, class prices are based on the monthly Basic Formula price series.

Annual Reporting and Recordkeeping Burden

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.87 hours per response.

Respondents: Milk Handlers and Milk Marketing Cooperatives.

Estimated Number of Respondents: 772.

Estimated Number of Responses per Respondent: 35.

Estimated Total Annual Burden on Respondents: 23,858 hours.

Estimated annual cost to respondents for report preparation: $276,514 (23,858 hours at $11.59 per hour). Although hourly rates vary among handlers in various localities, the wage paid to clerical workers engaged in report preparation is estimated to be comparable to about a grade GS–7, step 1.

It is important to note that the burden being reported is an estimate of the amount of time that would be required of current program participants, as was published in the Notice of Request for Extension, referenced in the introductory text of this section.

It is expected that this proposed rule would have little impact on the reporting and recordkeeping burden on handlers regulated under the Federal milk marketing order program. In fact, as a result of the consolidation of Federal orders from 31 to 11 as proposed, an overall reduction in reporting and recordkeeping requirements may occur due to greater uniformity in forms used and fewer ''special'' forms that currently apply to one or a few orders.

Non-substantial changes would be necessary on the required reports and records to correctly identify the new Federal market order (e.g. the current—and separate—reports for the Upper Florida, Tampa Bay and Southeastern Florida marketing areas would be combined into one report for the Florida marketing area).

Request for Public Input

Comments on the Executive Order 12866 analysis, the initial regulatory flexibility analysis, and the paperwork reduction analysis are requested. Specifically, interested parties are invited to submit comments on the regulatory and informational impacts of this proposed rule on small businesses. Comments are requested within 60 days of publication of this proposed rule in the **Federal Register**. Comments should be mailed to USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

Preliminary Statement

The material issues in this proposed rule relate to:

1. Consolidation of marketing areas.
2. Basic formula price replacement and other class price issues.
3. Class I price structure.
4. Classification of milk and related issues.
5. Provisions applicable to all orders.
6. Regional issues:
   a. Northeast Region.
   b. Southeast Region.
   c. Midwest Region.
   d. Western Region.
7. Miscellaneous and administrative matters.
   a. Consolidation of the marketing service, administrative expense, and producer-settlement funds.
   b. Consolidation of the transportation credit balancing funds.
   c. Proposed general findings.

II. Discussion of Material Issues and Proposed Amendments to the Orders

A discussion and explanation of the material issues and proposals contained in this rule are as follows:

1. Consolidation of Marketing Areas

Subtitle D, Chapter 1 of the 1996 Farm Bill, entitled ''Consolidation and Reform of Federal Milk Marketing Orders,'' requires, among other things, that the Federal milk marketing orders be limited to not less than 10 and not more than 14. Over 400 public comments have been received in response to requests from USDA for public input on the subject of order consolidation. Two preliminary reports on order consolidation have been issued by the Agricultural Marketing Service's Dairy Division. The initial Preliminary Report on Order Consolidation was issued in December 1996, and the Revised Preliminary Report was issued in May 1997. The December 1996 Report suggested that the 32 Federal milk marketing orders then in existence be consolidated to 10, and the May 1997 Report suggested 11. All comments received by the Department have been considered in the development of this proposed rule.

Although the Farm Bill specifically provides for the inclusion of California as a separate Federal milk order, the provision is contingent upon petition and approval by California producers. Interest in a Federal milk order has been expressed by some California producers, but the degree of interest expressed and the input provided by the producers has not been adequate to proceed with a proposed order for California.

The preliminary reports concerning order consolidation and this proposal were prepared using data gathered about receipts and distribution of fluid milk products by all known distributing

plants located in the 47 contiguous states, not including the State of California. Data describing the sources and disposition of fluid milk products for the month of October 1995 was used to compile the initial Preliminary Report. In response to comments and questions about certain marketing area boundaries and changes in marketing conditions in some of the markets after publication of the initial Preliminary Report, data concerning these markets was updated to January 1997, and more detailed information was gathered regarding the geographic distribution of route sales by individual handlers and their specific sources of producer milk. Specifically, such information was gathered for all or parts of the initially-suggested Northeast, Appalachian, Southeast, Mideast, Central, and Western marketing areas.

The eleven marketing areas suggested in the Revised Preliminary Report on Order Consolidation have, in some cases, been modified for this proposed rule. Several of the suggested marketing areas were the subjects of numerous comments containing information that indicated that the boundaries of those areas should be re-evaluated. As a result of the comments received, marketing data was further examined and analyzed for some of the suggested consolidated marketing areas to determine the most appropriate configurations of the consolidated areas to be included in this proposed rule. The result of the examination and analysis was to modify significantly from the Revised Preliminary Report the marketing areas of the proposed Northeast, Mideast, Upper Midwest, Central, and Southeast orders, and to make minor modifications to the marketing area of the proposed Appalachian order.

As in the case of data referring to the operations of less than three handlers or producers in the initial and Revised Preliminary Consolidation Reports, some of the data used to arrive at the proposed consolidated areas is restricted from use by the public because it refers to individual fluid milk distributing plants and the origins of producer milk supply for those plants. However, the basis for the proposed marketing area boundaries is described as specifically as possible without divulging such proprietary information.

Seven primary criteria were used in determining which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation. These are the same criteria which were used in the two reports on order consolidation issued by the Dairy Division (November 1996 and May 1997). The criteria are as follows:

1. Overlapping Route Disposition

The movement of packaged milk between Federal orders indicates that plants from more than one Federal order are in competition with each other for Class I sales. In addition, a degree of overlap that results in the regulatory status of plants shifting between orders creates disorderly conditions in changing price relationships between competing handlers and neighboring producers. This criterion is considered to be the most important.

2. Overlapping Areas of Milk Supply

This criterion applies principally to areas in which major proportions of the milk supply are shared between more than one order. The competitive factors affecting the cost of a handler's milk supply are influenced by the location of the supply. The pooling of milk produced within the same procurement area under the same order facilitates the uniform pricing of producer milk. Consideration of the criterion of overlapping procurement areas does not mean that all areas having overlapping areas of milk procurement should be consolidated. An area that supplies a minor proportion of an adjoining area's milk supply with a minor proportion of its own total milk production while handlers located in the area are engaged in minimal competition with handlers located in the adjoining area likely do not have a strong enough association with the adjoining area to require consolidation.

For a number of the proposed consolidated areas it would be very difficult, if not impossible to find a boundary across which significant quantities of milk are not procured for other marketing areas. In such cases, analysis was done to determine where the minimal amount of route disposition overlap between areas occurred, and the criterion of overlapping route disposition generally was given greater weight than overlapping areas of milk supply. Some analysis also was done to determine whether milk pooled on adjacent markets reflects actual movements of milk between markets, or whether the variations in amounts pooled under a given order may indicate that some milk is pooled to take advantage of price differences rather than because it is needed for Class I use in the other market.

3. Number of Handlers Within a Market

Formation of larger-size markets is a stabilizing factor. Shifts of milk and/or plants between markets becomes less of a disruptive factor in larger markets. Also, the existence of Federal order markets with handlers too few in number to allow meaningful statistics to be published without disclosing proprietary information should be avoided.

4. Natural Boundaries

Natural boundaries and barriers such as mountains and deserts often inhibit the movement of milk between areas, and generally reflect a lack of population (limiting the range of the consumption area) and lack of milk production. Therefore, they have an effect on the placement of marketing area boundaries. In addition, for the purposes of market consolidation, large unregulated areas and political boundaries also are considered a type of natural barrier.

5. Cooperative Association Service Areas

While not one of the first criteria used to determine marketing areas, cooperative membership often may be an indication of market association. Therefore, data concerning cooperative membership can provide additional support for combining certain marketing areas.

6. Features or Regulatory Provisions Common to Existing Orders

Markets that already have similar regulatory provisions that recognize similar marketing conditions may have a head start on the consolidation process. With calculation of the basic formula price replacement on the basis of components, however, this criterion becomes less important. The consolidation of markets having different payment plans will be more dependent on whether the basic formula component pricing plan is appropriate for a given consolidated market, or whether it would be more appropriate to adopt a pricing plan using hundredweight pricing derived from component prices.

7. Milk Utilization in Common Dairy Products

Utilization of milk in similar manufactured products (cheese vs. butter-powder) was also considered to be an important criterion in determining how to consolidate the existing orders.

Comments on Consolidation Criteria

Most of the comments received relative to order consolidation criteria agreed that overlapping route disposition and milk procurement are the most important criteria to consider in the consolidation process. In

addition, Class I use percentages and regulation on the basis of handler location were noted as criteria to consider. To some extent, the consolidated marketing areas included in this proposed rule do combine markets with similar Class I utilization rates rather than markets that would result in Class I use percentages being more uniform between markets. This result occurs because adjoining markets, where most of the sales and procurement competition takes place between handlers regulated under different orders, tend to have similar utilization rates rather than because the criterion is one that should be used to determine appropriate consolidations. Also, Class I utilization rates are a function of how much milk is pooled on an order with a given amount of Class I use. Differences in rates, to the extent they result in differences in blend prices paid to producers, provide an incentive for milk to move from markets with lower Class I utilization percentages to markets with higher Class I use.

Regulation of processors on the basis of their location rather than their sales areas has largely been incorporated in the proposed orders by a provision that would pool a handler under the order for the area in which the handler is located unless more than 50 percent of the handler's Class I route dispositions are distributed in another order area. This provision should help to assure that the order under which a distributing plant is pooled will change from month to month, and that a plant operator is subject to the same provisions, such as producer pay prices, as are its primary competitors.

The proposed orders also include a provision that locks plants processing primarily ultra-high temperature (UHT) milk into regulation under the order for the area in which the plant is located. Such plants often have widely dispersed route sales into a number of order areas, with sporadic deliveries to different areas. Without some type of lock-in provision, a UHT plant may be pooled in several different orders in as many months. At the same time, the plant's milk supply generally is procured from a given group of producers located in the same area as the UHT plant. Having the plant pooled under a succession of different orders with widely varying blend prices creates a disorderly condition for the producers involved.

On the basis of the distributing plant pooling standards included for all eleven orders in this proposed rule, there are only two distributing plants that would be fully regulated under an order other than the ones in which they are located. These plants are the Superbrand Dairy Products distributing plant in Greenville, South Carolina; and the Ryan Milk Company plant in Murray, Kentucky. The Superbrand plant likely will qualify for pooling under the proposed Southeast order, and the Ryan Milk Company plant, due to the nature of its extended shelf-life products, may qualify under any of several orders, depending on its dispositions in any particular month. Additional lock-in provisions are incorporated in both of these cases to assure that the plants are pooled in the area in which they compete for a producer milk supply and, in the case of the Ryan plant, that it will be pooled consistently under one order.

Several comments advocated that all of a state's territory should be included in one Federal order to assure that all producers in a state are paid on an equitable basis, or to make it easier to maintain state statistical data. One of the primary reasons for Federal milk orders is that milk marketing occurs readily across state boundaries, making state milk marketing regulation more difficult to enforce. It is important that Federal milk marketing areas continue to recognize the free interstate movement of milk to and from milk plants. There are cases where natural boundaries such as mountains or rivers may result in part of a state having a closer marketing relationship with an adjoining state than with other areas of the same state.

The initial Preliminary Report on Order Consolidation stated that the Farm Bill requirement to consolidate existing marketing areas does not specify expansion of regulation to previously non-Federally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. However, on the basis of data, views and arguments filed by interested persons in response to the initial Preliminary Report requesting that currently non-Federally regulated areas be added to some consolidated marketing areas, the Revised Preliminary Report suggested that such areas be added to several of the consolidated areas. Handlers who would be affected by the expansion of Federal order areas into currently non-Federally regulated areas were notified of the possible change in their status, and encouraged to comment.

Handlers located in Pennsylvania Milk Marketing Board (PMMB) areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. (If such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations). As State-regulated handlers, they must pay a Class I price for milk used in fluid products, often higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area, as in the case of including Maine or Virginia, would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns.

Based on the comments received in response to the Revised Preliminary Report on Order Consolidation it has been determined that consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed or equal those that would be established under Federal milk order regulation. Such regulation would have the effect of reducing returns to producers already included under State regulation without significantly affecting prices paid by handlers who compete with Federally-regulated handlers.

In order to avoid extending Federal regulation to handlers whose primary sales areas are outside current Federal order marketing areas, but who already are subject to similar minimum uniform pricing under State regulation, the in-area Class I disposition percentage portion of the pool distributing plant definition is proposed to be 25 percent for the Northeast order and 30 percent for the Mideast order, instead of the 10 or 15 percent used in the other nine consolidated order areas. The higher level of in-area sales required for pool status under these proposed orders will allow State-regulated plants to operate at their current level of sales within Federal order areas without being subject to full Federal order regulation.

As in both the initial and revised preliminary reports, ''pockets'' of unregulated areas within and between current order areas are included in the proposed consolidated marketing areas. The addition of currently-unregulated areas to Federal milk order areas can benefit regulated handlers by eliminating the necessity of reporting sales outside the Federal order marketing area for the purpose of determining pool qualification. Where such areas can be added to a consolidated order area without having the effect of causing the regulation of any currently-unregulated handler, they are proposed to be added.

Cornell University Study

In addition to AMS' analysis of the receipt and distribution data in the development of this proposal, researchers at Cornell University also provided input on potential consolidated marketing areas. This input was part of Cornell's partnership agreement with AMS to provide alternative analyses on Federal order reform issues. These researchers used an econometric model (the Cornell U.S. Dairy Sector Simulator, or USDSS), to determine 10–14 optimal marketing areas. Cornell's first options for 10–14 marketing areas were presented at an October 1996 invitational workshop for dairy economists and policy analysts held in Atlanta, Georgia. Based on USDSS model results, these options would result in minimum cost flows of milk using the known concentrations of milk production and population, without considering the location of milk plants. The marketing area maps that were circulated using these first results were those referenced by interested persons who cited the Cornell results in their comments on the initial Preliminary Report on Order Consolidation.

A second set of options was presented by Cornell researchers in spring 1997. These options were generated with a further-developed USDSS model. In updating the model, the researchers enhanced the inputs to its model as a means of better reflecting the actual structure of the national market for fluid milk products. These model updates allowed for determination of the minimum cost flows of: milk, intermediate and final products from producers to plants; from plants to plants; and from plants to consumers on the basis of the locations of milk supplies, dairy product processing plants, and consumers. The enhanced model is intended to provide for geographic market definition on the basis of a resulting set of optimal, efficient simulated flows of milk and dairy products between locations.

Although the USDSS model considers important factors such as milk supply, processing, and demand locations and transportation constraints in determining the optimal consolidated marketing areas, it does not include several other important circumstances that influence dairy industry and Federal order participants or the movement of milk which must be considered in this reform process. The USDSS model does not recognize that large areas, such as California, Virginia, Maine, Montana, large portions of Pennsylvania, and Wyoming, currently are not included in Federal milk order regulation, and does not recognize the Farm Bill requirement that, if included as a Federal order, the State of California be brought in as one order confined to the borders of California. Although the USDSS model incorporates highway mileage between milk production areas and milk plants, and between milk plants and consumers, it does not recognize features such as mountain ranges that affect hauling costs and may inhibit milk from moving. By attempting to maximize efficiencies in milk marketing, the model also does not recognize the existence of competing handlers operating plants in the same city or having the extent of handlers' route dispositions influenced by the existence of plants operated by the same handler in other locations. In addition, the model does not recognize that movements of producer milk often are determined by supply contracts between cooperatives and handlers or by the location of a handler's nonmember supply.

AMS is unaware of any other analyses performed to determine or suggest consolidated marketing areas.

As noted before, AMS' analysis focused primarily on distributing plant receipts and distribution information for October 1995, with more current information used as needed for further analysis. The data gathered by the Dairy Division from Federal Milk Market Administrators reflects actual movements of milk, both from production areas to processing plants, and from processing plants to consumption areas. This proposal considers this data, the seven criteria described fully above, and the factors not recognized in the USDSS model. Use of the USDSS may be an excellent way of determining where processing plants should be located to maximize the efficiencies of milk assembly and distribution, but is a less accurate means of determining where existing handlers actually compete for milk supplies and sales. The consolidated marketing area options presented by Cornell are not adopted because the USDSS model does not adequately reflect issues or factors that strongly affect which current marketing areas are most closely related. For this reason, this proposed rule is based on data reflecting actual distribution and procurement by fluid milk processing plants.

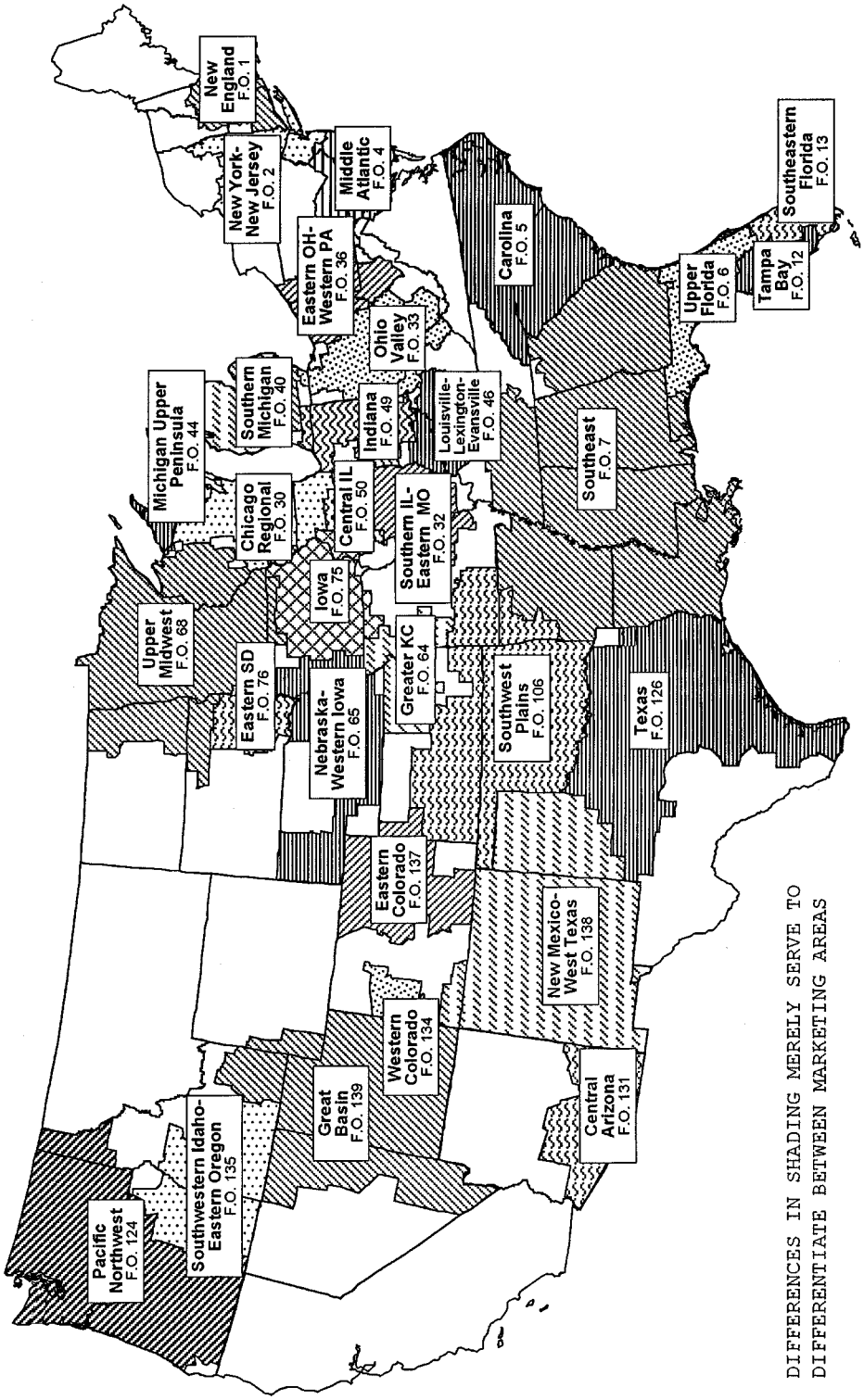
Proposed Marketing Areas

Following are maps of the current marketing areas and the 11 proposed marketing areas, followed by brief descriptions of the proposed areas (with those modified from the Revised Preliminary Report, and the modifications, marked by *) and the major reasons for consolidation. A more detailed description of each proposed consolidated order follows this summary.

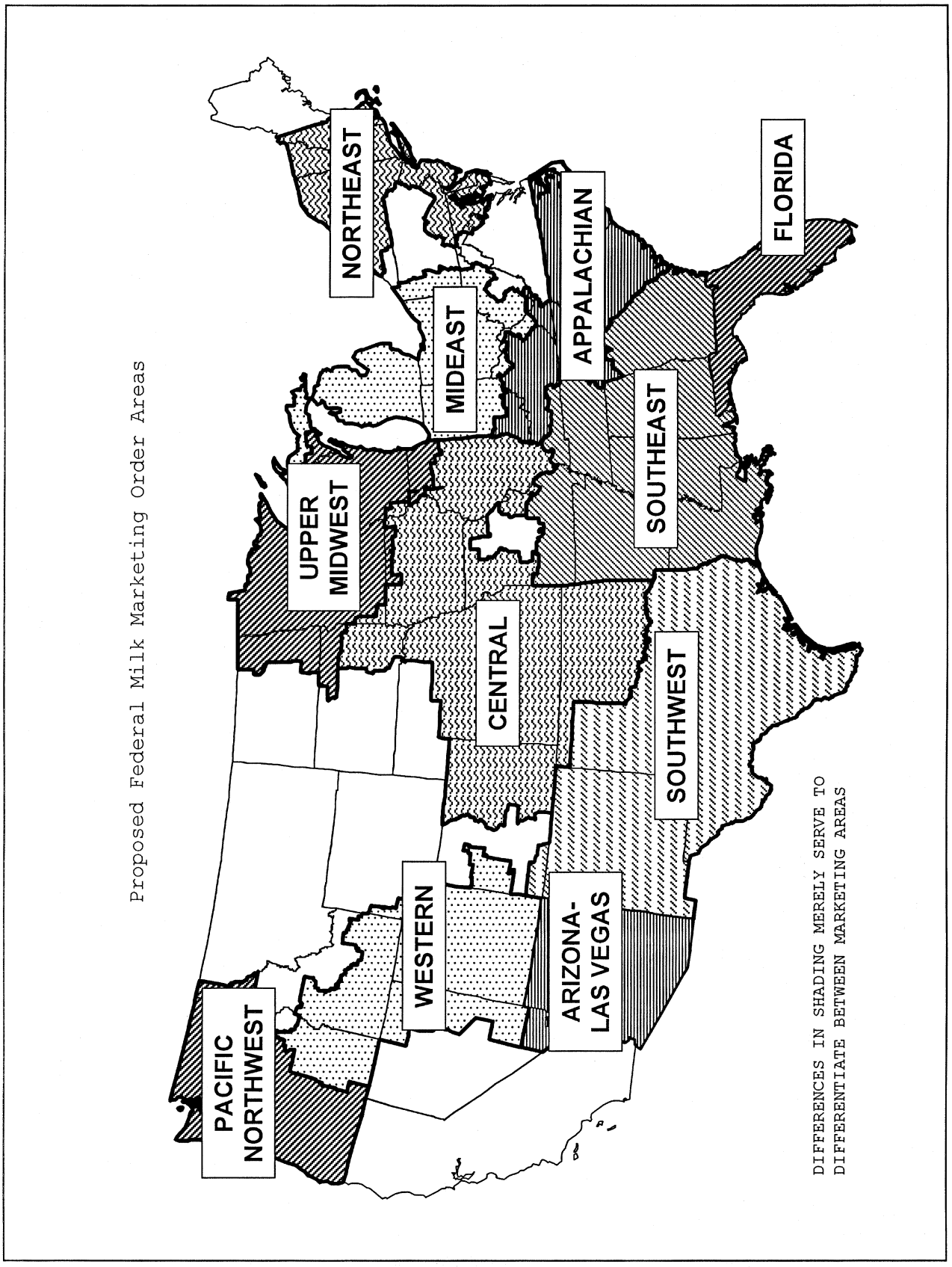
At the end of the Order Consolidation portion of the proposed rule is appended a list of distributing plants associated with each proposed marketing area, with each plant's expected regulatory status.

BILLING CODE 3410–02–P

Marketing Areas Under Federal Milk Orders as of October 1, 1997



DIFFERENCES IN SHADING MERELY SERVE TO DIFFERENTIATE BETWEEN MARKETING AREAS



BILLING CODE 3410–02–C

Proposed Eleven Marketing Areas

*1. *Northeast*—current marketing areas of the New England, New York-New Jersey and Middle Atlantic Federal milk orders, with the addition of: the contiguous unregulated areas of New Hampshire, northern New York and Vermont; the non-Federally regulated portions of Massachusetts; and the Western New York State order area. * The areas previously suggested to be included in the expanded Northeast order area (the southern tier of 3 western New York counties and Pennsylvania Milk Marketing Board Areas 2 and 3) have not been included in the proposed Northeast marketing area. The handlers who would be added to those currently fully regulated under the three separate orders either have a sufficient percentage of their route disposition within the consolidated marketing area to meet the proposed pooling requirements or are those located in the area proposed to be added.

Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. An important measure of association is evidenced by industry efforts to study and pursue consolidation of the three Federal orders prior to the 1996 Farm Bill.

*2. *Appalachian*—current marketing areas of the Carolina and Louisville-Lexington-Evansville (minus Logan County, Kentucky) Federal milk orders plus the recently-terminated Tennessee Valley area, with the addition of * 21 currently-unregulated counties in Indiana and Kentucky. Five Kentucky counties that were part of the former Paducah order area and previously were suggested to be added to the Appalachian order area have been proposed for addition to the Southeast order instead.

Overlapping sales and procurement areas between these marketing areas are major factors for proposing this consolidation.

3. *Florida*—current marketing areas of the Upper Florida, ampa Bay, and Southeastern Florida Federal milk orders.

Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

*4. *Southeast*—current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area; * plus 11 northwest Arkansas counties and 22 entire and 1 partial Missouri county that currently are part of the Southwest Plains marketing area; * plus 6 Missouri counties that currently are part of the Southern Illinois-Eastern Missouri marketing area; * plus 16 currently unregulated southeast Missouri counties (including 4 that were part of the former Paducah marketing area); plus 20 currently-unregulated Kentucky counties (* including 5 from the former Paducah marketing area that previously had been suggested for inclusion with the Appalachian area).

Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and these counties. The proposed addition of the Kentucky portion of the former Paducah, Kentucky, order area to the Southeast is in the nature of a fine-tuning adjustment in order boundaries. The addition of the Arkansas and Missouri counties recognizes a number of industry comments.

*5. *Mideast*—current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan and Indiana Federal milk orders, plus Zone 2 of the Michigan Upper Peninsula Federal milk order, and currently-unregulated counties in Michigan, Indiana and Ohio. * The current Pennsylvania Milk Marketing Board Area 6 and the two most western of the southern tier of counties in New York are not included in the proposed Mideast marketing area.

Major criteria for this proposed consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas proposed to be consolidated. With the consolidation, most route disposition by handlers located within the suggested Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area proposed to be included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

*6. *Upper Midwest*—current marketing areas of the Chicago Regional, Upper Midwest, Zones I and I(a) of the Michigan Upper Peninsula Federal milk orders, and unregulated portions of Wisconsin. The * Iowa, * Eastern South Dakota and * Nebraska-Western Iowa Federal order areas suggested to be added to this consolidated area in the revised report are proposed instead to be included in the Central consolidated area.

Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders and overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order. A number of the same cooperative associations market member milk throughout the proposed area.

The overlapping of procurement between the Chicago Regional and Upper Midwest order areas and the Iowa, Eastern South Dakota and Nebraska-Western Iowa order areas is, it was pointed out in comments received in response to the Revised Preliminary Report, due largely to milk pooled on the more southern orders when advantageous because of price differences. As a result, the volume of milk pooled on the Iowa, Eastern South Dakota and Nebraska-Western Iowa orders from Minnesota and Wisconsin fluctuates greatly, without any discernable relationship to amounts of milk needed from those areas at plants in the more southern areas.

The other consolidation criteria mentioned in the Revised Preliminary Report as reasons for consolidating the Iowa, Eastern South Dakota and Nebraska-Western Iowa order areas with the Chicago Regional and Upper Midwest areas also are applicable to the combination of these areas with the consolidated Central area.

*7. *Central*—current marketing areas of the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Southwest Plains, Eastern Colorado, * Nebraska-Western Iowa, * Eastern South Dakota and * Iowa Federal milk orders, minus * 11 northwest Arkansas counties and 22 entire and 1 partial Missouri county that are part of the current Southwest Plains marketing area, minus * 6 Missouri counties that are part of the current Southern Illinois-Eastern Missouri marketing area, plus * 54 currently-unregulated counties in Kansas, Missouri, Illinois, Iowa, Nebraska and Colorado, * plus 14 counties in central Missouri that are not considered to be part of the distribution area of an unregulated handler in central Missouri. This configuration would leave 25 unregulated counties in central Missouri

that are intended to delineate the distribution area of Central Dairy at Jefferson City, Missouri.

Major criteria on which this proposed consolidation is based include overlapping route disposition and procurement between the current orders. The proposed consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The proposed consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, many of the producers in these areas share membership in several common cooperatives.

8. Southwest—current marketing areas of Texas and New Mexico-West Texas Federal milk orders, with the addition of two currently-unregulated northeast Texas counties and 47 currently-unregulated counties in southwest Texas.

Major criteria supporting this proposed consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for both orders. Addition of the currently-unregulated Texas counties will result in the regulation of no additional handlers, and will reduce handlers' recordkeeping and reporting burden and the market administrator's administrative costs.

9. Arizona-Las Vegas—current marketing area of Central Arizona, plus the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties.

The major criterion on which the proposed consolidation is based is sales overlap between the sole Las Vegas, Nevada, handler and handlers regulated under the Central Arizona order in both Clark County, Nevada, and unregulated portions of northern Arizona. The Grand Canyon and sparsely populated areas in the northwest part of Arizona, and the sparsely populated desert region of eastern Arizona constitute natural barriers between this and adjacent marketing areas. In addition, significant volumes of bulk and packaged milk are exchanged between the Arizona-Las Vegas area and Southern California.

10. Western—current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders, minus Clark County, Nevada. The major criteria on which the proposed consolidation is based include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also have similar multiple component pricing plans. The Western Colorado order is included because it is a small market where data cannot be released without revealing confidential information unless combined with data pertaining to another marketing area, and has at least as great a relationship with the adjacent Great Basin market as with any other.

Collection of detailed data for individual handlers indicates that the strength of earlier relationships between the former Great Basin and Lake Mead orders that justified their 1988 merger have dwindled significantly, with the Las Vegas area now more closely related to southern California and competing most heavily with Central Arizona handlers.

11. Pacific Northwest—current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

TABLE 1.—MARKET INFORMATION: POPULATION, UTILIZATION, PRODUCER MILK AND WEIGHTED AVERAGE UTILIZATION VALUE (WAUV) IN PROPOSED MARKETING AREAS

Market	Population [1] (millions)	Class I utilization [2] (percent)	Producer milk [2] (1000 lbs.)	WAUV [2,3] (per cwt)
Northeast	51.3	47.7	2,031,976	$13.47
Appalachian	17.1	82.2	440,965	13.97
Florida	13.8	88.3	204,541	15.05
Southeast	26.7	85.2	486,301	14.24
Mideast	31.0	55.8	1,050,656	12.92
Upper Midwest	18.5	34.5	1,034,318	12.60
Central	21.0	48.8	859,405	12.95
Southwest	20.9	48.1	680,232	13.39
Arizona-Las Vegas	5.5	48.9	181,075	13.26
Western	3.3	29.6	293,714	12.78
Pacific Northwest	8.8	35.6	493,207	12.44
Total	216.0	N/A	7,756,390	N/A

[1] Based on July 1, 1996 estimates.
[2] Based on October 1995 information, for plants which would be fully regulated under assumptions used in this report.
[3] Not a blend price—shown solely for the purpose of showing impact of consolidation on utilization.

TABLE 2.—MARKET INFORMATION: NUMBER OF PLANTS IN PROPOSED MARKETING AREAS

Market	Distributing plants [1]			Manufacturing and supply plants [3]
	Fully regulated (FR)	Exempt [2]	FR small businesses	
Northeast	79	17	42	106
Appalachian	29	1	13	13
Florida	15	2	3	4
Southeast	36	1	20	37
Mideast	56	2	36	59
Upper Midwest	29	1	15	301

TABLE 2.—MARKET INFORMATION: NUMBER OF PLANTS IN PROPOSED MARKETING AREAS—Continued

Market	Distributing plants [1]			Manufacturing and supply plants [3]
	Fully regulated (FR)	Exempt [2]	FR small businesses	
Central	34	2	8	83
Southwest	23	3	7	17
Arizona-Las Vegas	5	1	2	3
Western	11	3	6	19
Pacific Northwest	20	3	12	27
Total	337	36	164	669

[1] Based on October 1995 information. Excludes: (1) out-of-business plants through May 1997; and (2) new plants since October 1995.
[2] Exempt based on size (less than 150,000 lbs. route distribution per month).
[3] Based on May 1997 information.

Descriptions of Proposed Consolidated Marketing Areas

Each of the proposed consolidated order areas is described in the text following this introduction. The criteria which were used to determine which areas should be consolidated are explained in detail. For each proposed area, the following information is included:

Geography. The political units (states, counties, and portions of counties) included in each area, the topography, and the climatic conditions are described for the purpose of delineating the territory to be incorporated in each proposed marketing area and describing its characteristics pertaining to milk production and consumption. This information was derived principally from Microsoft® Encarta® 96 Encyclopedia, and augmented by several U.S. atlases.

Population. The total population of each area and its distribution within the area is included for the purpose of identifying where milk is consumed. July 1, 1996, population estimates were obtained from ''CO–96–8 Estimates of the Population of Counties and Demographic Population Change,'' Population Estimates Division of the U.S. Bureau of the Census.

Metropolitan Statistical Area (MSA) information is provided by the United States Office of Management and Budget (OMB), which defines metropolitan areas according to published standards that are applied to Census Bureau data. To be described as an MSA, an area (one or more counties) must include at least one city with 50,000 or more inhabitants, or a Census Bureau-defined urbanized area (of at least 50,000 inhabitants) and a total metropolitan population of at least 100,000 (75,000 in New England). Areas with more than 1 million population may be described as ''consolidated metropolitan statistical areas'' (CMSAs) made up of component parts designated as primary metropolitan statistical areas (PMSAs). For purposes of the marketing area descriptions in this proposed rule, the term ''MSA'' also includes CMSAs and PMSAs.

Per capita consumption. Available data pertaining to per capita consumption is discussed to help describe how much milk is needed to supply the fluid needs of the population of each proposed marketing area. Per capita consumption numbers were estimated by state using data from a report on ''Per Capita Sales of Fluid Milk Products in Federal Order Markets,'' published in the December 1992 issue of Federal Milk Order Market Statistics, #391, issued May 1993.

Production. A description of the amount and sources of milk production for the market is included for the purpose of identifying the supply area for each proposed marketing area. Production data by state and county for each Federal milk order was compiled from information collected by the offices administering the current Federal milk orders (market administrators' offices).

Distributing plants-route disposition. For each marketing area the number and types of distributing plants are included, with the locations of plants by population centers, to identify where milk must be delivered. This information was collected by market administrators' offices.

Utilization. The utilization percentages of the current individual orders and the effect of consolidation on the proposed consolidated orders are described for each proposed marketing area, with an estimate of the effect of consolidation on each current individual order's blend price. The current utilization data is published each month for each Federal milk order market. Pool data was used to calculate the effects of consolidation on utilization.

Other plants. The presence of manufacturing and supply plants in and near the proposed order areas, and the products processed at these plants, are described for each proposed consolidated area. This information was collected by market administrators' offices.

Cooperative Associations. The number of cooperative associations pooling member milk under each of the current individual orders included in each consolidated area, and the number that pool milk in more than one of the areas. This information was obtained from market administrators' offices.

Criteria for Consolidation. The extent to which the criteria used in identifying markets to be consolidated are supported by the marketing conditions present in each of the proposed consolidated areas is discussed.

Discussion of comments and alternatives. Comments filed in response to the two preliminary reports on consolidation and alternatives to the proposed consolidation are summarized and discussed for each proposed consolidated area.

Northeast

The proposed consolidated Northeast marketing area is comprised of the current New England, New York-New Jersey, and Middle Atlantic Federal milk order marketing areas (Orders 1, 2, and 4), with currently-unregulated areas in western and northern New York and northern Vermont and New Hampshire added. The entire areas of the States of Connecticut (8 counties), Delaware (3 counties), Massachusetts (14 counties), New Hampshire (10 counties), New Jersey (21 counties), Rhode Island (5 counties), and Vermont (14 counties) would be contained within the proposed Northeast order area. In addition, the District of Columbia, 21 counties and the City of Baltimore in Maryland, 54 complete and 2 partial counties and New York City in New

York, the 15 Pennsylvania counties currently included in the Middle Atlantic marketing area, and 4 counties and 5 cities in Virginia would be included in the consolidated order. There are 169 complete and 2 partial counties and 8 cities, including the District of Columbia, in the proposed Northeast marketing area.

Geography

The proposed Northeast marketing area extends from the Canadian border on the north, south to northern Virginia, eastern Maryland and Delaware, with its eastern edge along the western border of Maine at the northern end of the marketing area, and along the Atlantic Ocean for the remainder. The total northeast-southwest extent of the marketing area is approximately 600 miles. The marketing area extends westward to Lake Ontario and Lake Erie in New York State (about 450 miles east to west), goes only as far west as the northern part of New Jersey (about 60 miles), and expands westward again across the eastern half of southern Pennsylvania, taking in a small part of northeast Virginia, eastern Maryland, and Delaware (about 230 miles east to west). There would be a large State-regulated area in Pennsylvania just to the west of the Northeast marketing area; and most of the State of Virginia to the south of the marketing area also is regulated under a State order. The proposed Northeast marketing area is contiguous to no other proposed consolidated marketing areas, but parts of it, in western New York State and south central Pennsylvania, are very close to the proposed Mideast area.

The northern and northwestern parts of the Northeast area are large areas of coniferous forests that are somewhat mountainous. To the south and southeast of the forested areas are areas where dairy farming predominates as the primary type of agriculture. In fact, for 4 of the 10 states that are contained within the proposed Northeast marketing area (New Hampshire, New York, Pennsylvania and Vermont) dairy products were the number 1 agricultural commodity in terms of cash receipts during 1996. Principally along the Atlantic coastline is a flatter area where other agricultural activities, including greenhouse and nursery, fruit, truck and mixed farming, take place. A near-continuous strip along the east coast of the area, from northeast Massachusetts southwest to the Baltimore area, is a major industrial area and is heavily populated.

Population

According to July 1, 1996, population estimates, the total population in the proposed consolidated Northeast marketing area is 51.3 million. The area is very densely populated, especially along a coastal strip extending from Boston, Massachusetts, in the northeast to Washington, D.C., in the southwest. In this proposed marketing area of approximately 170 counties, 103 are included within Metropolitan Statistical Areas (MSAs). The 22 Metropolitan Statistical Areas in the proposed Northeast marketing area account for 91.7 percent of the total market area population.

Over half of the marketing area population is located in 6 interconnected MSAs in 48 counties, extending from central New Jersey to southern New Hampshire. The six MSAs are: Springfield, Massachusetts; Boston-Worcester-Lawrence, Massachusetts/New Hampshire/Maine/Connecticut; Providence-Fall River-Warwick, Rhode Island/Massachusetts; New London-Norwich, Connecticut/Rhode Island; Hartford, Connecticut; and New York-N. New Jersey-Long Island, New York/New Jersey/Connecticut/Pennsylvania. The population in this northeastern portion of the marketing area is concentrated most heavily at its northern and southern ends—the New York City area has a population of approximately 20 million, and the Boston area's population is approximately 5.5 million. Two of the other MSAs, Hartford and Providence, each have over 1 million population. Although each of these six MSAs is described as a separate area in the population data, many of the counties involved are divided between separate MSAs.

Just southwest of the New York City MSA is the Philadelphia-Wilmington-Atlantic City, Pennsylvania/New Jersey/Delaware/Maryland MSA, with a population of 6 million. Some counties of these two MSAs are adjacent. Southwest of the Philadelphia MSA and separated from it by only one county is the Washington, DC/Baltimore, Maryland/northern Virginia MSA, with a population in the proposed marketing area of 5.7 million.

Of the 14 other MSAs in the proposed marketing area, 8 are located in New York State, with an average population of nearly 600,000 each. Two are located in Pennsylvania, with populations of .6 and .45 million. One MSA in Vermont, 1 in Delaware, and 2 in Massachusetts have average populations of 160,000.

Fluid Per Capita Consumption

Fluid per capita consumption estimates vary within the Northeast from 16.7 pounds per month in the more southern parts of the region to 20 pounds per month in New England. These rates would result in a weighted average of 18 pounds per month, and an estimated total fluid milk consumption rate of 920 million pounds per month for the Northeast marketing area. Approximately 730 million pounds of this fluid milk consumption would be required along the heavily-populated coastal area extending from northeast Massachusetts southwest through Washington, D.C. and northern Virginia. Northeast handlers distributed 883.7 million pounds within the proposed marketing area during October 1995. Sales within the proposed marketing area by handlers that would be regulated by other orders totaled 9.3 million pounds, sales by partially regulated handlers within the area were 10.8 million, and an additional .8 million pounds were distributed by handlers who would be partially regulated under other orders. Sales in the marketing area by exempt and government plants, and by producer-handlers totaled 6.2 million pounds.

Milk Production

In December 1996, over 19,000 producers from 13 states pooled 1.9 billion pounds of milk on the three orders comprising the proposed Northeast order. With the addition of the Western New York State milk order and several currently-unregulated handlers, it is probable that the Northeast pool regularly will exceed 2 billion pounds of milk per month.

Eleven of the 13 states supplying milk to the three Federal order pools are at least partly in the marketing area, and 83 percent of the producer milk pooled under the three orders in December 1996 came from just 3 states—New York (41.5 percent), Pennsylvania (31.7 percent), and Vermont (10 percent). Over 10 million pounds of milk was produced in each of fifty-eight counties: 1 county in northeast Connecticut, 3 in the most northwestern of the Maryland portion of the marketing area, 31 spread over most of New York, 1 on the western edge of northern Virginia, and 22 in southeast to south central Pennsylvania and in the eastern part of the northern tier of Pennsylvania counties, with an additional Pennsylvania county, Lancaster, accounting for over 150 million pounds of milk. Eighty percent of the markets' total producer milk was produced within the proposed marketing area. In

addition, of the 81.1 million pounds pooled under the Western New York State milk order, over 90 percent was produced within the proposed marketing area.

Less than 40 percent of the milk production for the consolidated market was produced within 100 miles of the heavily populated coastal corridor. Although the Northeast area contains two out of the top five milk-producing states in the U.S. (New York and Pennsylvania), the population of the proposed marketing area is 20 million more than the next most-populated proposed consolidated area (the Mideast area, with 31 million people). The Northeast, therefore, is a very significant milk production area with a very high demand for fluid milk and dairy products.

Distributing Plants—Route Disposition

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports, with the pooling standards used in the Revised Preliminary Report adjusted to 25 percent of route dispositions as in-area sales (as discussed previously in Comments on Consolidation), and updated for known plant closures through May 1997, 156 distributing plants would be expected to be associated with the Northeast marketing area. The plants associated would include 79 fully regulated distributing plants (64 currently fully regulated, 10 currently partially regulated, and 5 currently unregulated), 15 partially regulated (3 currently fully regulated, 11 currently partially regulated and 1 currently unregulated), 17 exempt plants having less than 150,000 pounds of total route disposition per month (2 currently fully regulated, 4 currently partially regulated, 2 currently exempt based on size, and 9 currently unregulated), 43 producer-handlers (42 currently producer-handlers and 1 currently unregulated), and 2 exempt plants based on institutional status (1 currently unregulated and 1 currently exempt based on institutional status).

Since October 1995, 10 distributing plants (3 in New York, 3 in Massachusetts, 3 in Pennsylvania, and 1 in Connecticut), have gone out of business.

Over half (88) of the Northeast distributing plants which were identified as being in business in October 1995 were located in the 8 Northeast MSAs that have over a million people each. This number includes 49 (or two-thirds) of the pool distributing plants. Under the proposed consolidation, it is anticipated that there would be 12 pool distributing plants in the Boston-Worcester-Lawrence area, 10 in the Philadelphia-Wilmington-Atlantic City area, and 11 in the New York-Northern New Jersey-Long Island area. The Hartford, Connecticut, area would have 3 pool distributing plants, Providence-Fall River-Warwick would have 3, and the Washington-Baltimore area would have 6 pool distributing plants. Three pool distributing plants would be located in the Buffalo-Niagara Falls area, and 1 in the Rochester, New York, area.

Of the remaining 70 distributing plants, 14 pool distributing plants were located in other MSAs as follows: 8 in New York; 5 in Pennsylvania; and 1 in Massachusetts. Thirty-nine of the remaining distributing plants, including 11 pool distributing plants, were not located in MSAs.

For the proposed Northeast order, the in-area route disposition standard has been adjusted to 25 percent of total route dispositions from the 15-percent standard that was common to all of the suggested consolidated areas in the Revised Preliminary Report. This adjustment has been made to assure that State-regulated plants in Virginia and Pennsylvania that have sales in the proposed marketing area will not be pooled under Federal order regulation.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Northeast order, the Class I utilization percentages for the New England, New York-New Jersey, and Middle Atlantic markets were 51, 44, and 53 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Northeast order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: New England, a 3-cent per cwt decrease (from $13.52 to $13.49); New York-New Jersey, a 3-cent per cwt increase (from $13.45 to $13.48); and Middle Atlantic, a 4-cent per cwt decrease (from $13.44 to $13.40). The weighted average use value for the consolidated Northeast order market is estimated to be $13.47 per cwt. For December 1996, combined Class I utilization for Orders 1, 2 and 4 was 44.4 percent based on 852.7 million pounds of producer milk used in Class I out of 1.919 billion total producer milk pounds.

The Northeast area is one of two proposed consolidated marketing areas that would have a significantly higher-than-average percentage of its milk used in Class II. Currently, all three of the orders have Class II utilization between 15 and 20 percent. When the markets are combined the average for the consolidated market will be approximately 17 percent.

Other Plants

Located within the proposed consolidated Northeast marketing area during May 1997 were 106 supply or manufacturing plants: 13 in Vermont (4 in the Burlington area), 1 in New Hampshire and 10 in Massachusetts (all in the Boston-Worcester-Lawrence area), 1 in Rhode Island (in the Providence-Fall River-Warwick area), 7 in Connecticut (3 in the Hartford area and 4 in the New York-Northern New Jersey-Long Island area), 12 in New Jersey (all in the New York-Northern New Jersey-Long Island area), 2 in Delaware (one in the Philadelphia-Wilmington-Atlantic City area), 7 in Maryland (four in the Washington-Baltimore area), 13 in Pennsylvania (5 in the Philadelphia-Wilmington-Atlantic City area), and 40 in New York (9 in the New York-Northern New Jersey-Long Island area, 6 in the Buffalo-Niagara Falls area and 2 in the Rochester area).

Seventeen of the 106 plants are pool plants. Of these pool plants, 9 are manufacturing plants—1 manufactures primarily Class II products, 5 manufacture primarily powder, 2 manufacture primarily cheese and 1 manufactures primarily other products. There are 8 pool supply plants—1 has no primary product, but ships only to distributing plants; 5 are supply plants that manufacture primarily Class II products, and 2 supply plants manufacture primarily cheese. Of the remaining 89 nonpool plants in the Northeast marketing area, 82 are manufacturing plants—41 manufacture primarily Class II products, 1 manufactures primarily butter, 1 manufactures primarily powder, 37 manufacture primarily cheese and 2 manufacture primarily other products. Seven of the remaining nonpool plants are supply plants—2 are supply plants that manufacture primarily Class II products and 5 are supply plants that manufacture primarily cheese.

A pool supply plant that manufactures primarily cheese and a nonpool cheese manufacturing plant are located in the currently-unregulated portions of Steuben County that are proposed to be added to the consolidated Northeast marketing area.

There are also four supply or manufacturing plants in the unregulated area of New York—one in the unregulated county of Chautauqua, one in the unregulated portion of

Cattaraugus County, and two in the unregulated portion of Allegany County. One is a pool supply plant manufacturing primarily Class II products, and the remaining three are nonpool manufacturing plants—two manufacture primarily cheese and one manufactures primarily Class II products.

Cooperative Associations

During December 1995, 43 cooperative associations pooled their members' milk on the three Northeast orders. Three of the cooperatives pooled milk on all three orders, 2 pooled milk on both the New England and New York-New Jersey orders, and 2 others pooled milk on both the New York-New Jersey and Middle Atlantic orders. Sixty-eight percent of the milk pooled in the Northeast is cooperative association milk, with 79.3 percent of Federal Order 1 milk, 50.5 percent of Federal Order 2 milk, and 91.8 percent of Federal Order 4 milk pooled by cooperatives.

The 5 cooperatives that market milk only under Order 1 account for 25.5 percent of the milk marketed under that order by cooperative associations, and 20.2 percent of total milk marketed under Order 1. In Order 2, only 28 percent of cooperative association milk is marketed by the 27 co-ops that market milk only under Order 2. Milk marketed by these 27 cooperatives represent 14.1 percent of the total milk pooled for December 1995. Four cooperative associations marketed 45.4 percent of the milk marketed by cooperatives under Order 4. This amount of milk represented 41.7 percent of total milk pooled under Order 4 in December 1995.

Criteria for Consolidation

The current New England, New York-New Jersey, and Middle Atlantic Federal milk order marketing areas (Orders 1, 2, and 4) should be consolidated because of the interrelationship between Orders 1 and 2 and between Orders 2 and 4 regarding route disposition and milk supply. Ninety-four percent of fluid milk disposition by handlers who would be fully regulated under the consolidated order is distributed within the proposed marketing area. Fully regulated handlers account for 97 percent of the fluid milk products distributed within the proposed marketing area. The utilization of the three markets is similar, and several cooperative associations market their members' milk in all three markets. The three markets are surrounded by unregulated areas to the west and south, the Atlantic ocean to the east, and Canada to the north. The adjoining Maine State milk order also serves as somewhat of a barrier to milk marketing in the northeast by limiting the association of non-Maine milk with the Maine pool.

The merger of these markets has been previously proposed by interested parties. A committee comprised chiefly of Northeast region cooperatives was formed over two years ago to study a merger of the three Federal orders. In support of a Northeast consolidation, the committee and other interested parties, including handlers and regulatory agencies, have noted: overlapping sales and procurement areas; a trend toward consolidation of cooperative processors and handlers in the region (leaving the remaining handlers with larger distributing areas and volumes); and regulation of plants by an order in which they are not located. The proponents of consolidation have indicated that consolidation would tend to solve some of the presently existing inequities and would lead to greater efficiency for handlers and order administration.

Discussion of Comments and Alternatives

A large number of comments, primarily from producers and producer groups, supported expansion of the Northeast consolidated marketing area into non-federally regulated areas. Comments supported the suggestions in the Revised Preliminary Report on Order Consolidation that would have extended federal order marketing areas to non-federally regulated areas which are part of the same milksheds and fluid milk markets, arguing that the surrounding federal order pool(s) are carrying the necessary surplus for the Class I sales distributed by non-regulated handlers.

Comments favoring expansion into the non-federally regulated Northeast tended to include the unregulated areas of Pennsylvania, and sometimes the unregulated counties in Maryland and West Virginia. Among the comments supporting regulation of the entire state of Pennsylvania, there were differing opinions on whether the Pennsylvania Milk Marketing Board (PMMB) area 6 should be in the Northeast or the Mideast. Comments on behalf of the Association of Dairy Cooperatives in the Northeast (ADCNE), for example, supported including PMMB Area 6 in the Northeast. These comments also supported expansion to include Allegany and Garrett counties in western Maryland. Comments from the Pennsylvania State Grange supported regulating the entire state, but including all of it in the Northeast area.

Several comments suggested including currently-unregulated portions of Massachusetts in the Northeast marketing area. According to comments from a cooperative association, the ''corridor'' in Massachusetts that was suggested to remain unregulated has raised questions from handlers and producers regarding equity, since the handler within the corridor competes with regulated handlers. This association also stated that the wide dispersion of the towns suggested to remain unregulated would cause added expense to handlers in reporting Class I sales inside and outside the marketing area of the Northeast order. The Massachusetts Farm Bureau Federation, Inc., comments favored regulating all areas in the Federal order to protect Massachusetts dairy producers from the unfair marketing conditions created by current ''pass-through'' provisions of the New York-New Jersey order. In addition, a comment filed by the Commissioner of the Massachusetts Department of Food and Agriculture favored including all of Massachusetts in the consolidated order, stating that inclusion of the currently-unregulated ''corridor'' would not disadvantage any handlers currently located there. The letter stated that the dairy farmers of Massachusetts will be best served with uniform regulation, which would also foster fair competition.

A comment filed by the State of Vermont favored inclusion of the currently-unregulated portions of that State in the consolidated area on the basis that expansion creates cost equity between processors.

Maine has been and continues under this proposal to be excluded from Federal order regulation. Although limited support was expressed for Maine's inclusion in the Northeast consolidated order, approximately 5 comments supporting Maine's exclusion from Federal orders have been received. Comments filed by the Maine Milk Commission stated that Maine successfully regulates prices, resulting in Maine producers receiving higher prices than farmers whose milk is pooled under Federal orders. The comments further stated that consumer prices in Maine are lower than those in New England's states and counties. The American, New York and New Jersey Farm Bureaus all supported Maine's exclusion.

Over 115 comments, including petitions with numerous signatures, opposed expansion into Pennsylvania. Some of the comments cited the enjoyment by Pennsylvania producers of price stability for the more than 50

years during which the PMMB has been regulating milk marketing within the state. Comments from producers stated a desire to avoid additional government regulations and fees. Comments stated that the PMMB individual handler pools result in greater returns to producers, and producer returns would decline if handlers are required to pay the additional fluid value into the marketwide pool to subsidize cheese/powder plants.

As stated in the introduction to the consolidation discussion, it has been determined that consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed those that would be established under Federal milk order regulation. Handlers located in PMMB areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. When such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations. As State-regulated handlers, they must pay a Class I price for milk used in fluid products that often is higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area, as in the case of including Maine, would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns. In view of these situations, it appears that stable and orderly marketing conditions can be maintained without extending full Federal regulation to State-regulated handlers.

Regulated plants competing for Class I sales with unregulated distributing plants in northern Vermont and New York would be subject to a competitive disadvantage if the currently-unregulated handlers are not included within the consolidated marketing area. This result would occur because the ''pass-through'' provision of the current New York-New Jersey order, which exempts from minimum pricing a volume of milk equivalent to a regulated handler's sales in unregulated areas in competition with unregulated handlers, is not proposed for inclusion in the consolidated Northeast order. Inclusion of the currently unregulated areas of northern New York and Vermont in the consolidated Northeast order area will assure that distributing plant operators that currently are fully regulated would be placed on an equal competitive footing with handlers currently unregulated, while having no negative effect on the producers who would be affected.

The ''corridor'' cited in Massachusetts should be included in the consolidated order area, partly because the sole handler who would be affected by the regulation of that area has gone out of business. Inclusion of the area at this time would not have the negative effect of imposing regulation on a small handler, as was feared earlier, but would lighten handlers' reporting burden and the market administrator's administrative burden in keeping separate data on sales in this small unregulated area. In addition, the offshore Massachusetts counties of Dukes and Nantucket should be added to the marketing area. The only entity currently operating in those counties (a producer-handler on Martha's Vineyard) would be exempt from the pooling and pricing provisions of the order by virtue of its status as a producer-handler and by having fewer than 150,000 pounds of route disposition per month. Mainland handlers distributing milk in these two counties would find their reporting burden eased if these counties become part of the marketing area.

The Western New York State order area is proposed to be added to the consolidated Northeast area because the persons regulated under that order have so requested. Regarding New York State, only the southern tier of western New York counties should not be included in the consolidated area because their addition would make more likely the full regulation of PMMB-regulated distributing plants with sales in that small area of New York (1 full county and 2 partial counties).

Appalachian

The proposed Appalachian marketing area is comprised of the current Carolina (Order 5) and Louisville-Lexington-Evansville (Order 46) marketing areas (less one Kentucky county that is included in the proposed Southeast marketing area) as well as 64 counties and 2 cities formerly comprising the marketing area of the recently-terminated Tennessee Valley Federal Order (Order 11) and currently-unregulated counties in Indiana and Kentucky. There are 297 counties and 2 cities in this proposed marketing area.

Geography

The Appalachian market is described geographically as follows: 7 unregulated Georgia counties (formerly part of Order 11), 20 Indiana counties (17 currently in Order 46 and 3 currently unregulated), 81 Kentucky counties (47 currently in Order 46, 16 formerly part of Order 11, and 18 currently unregulated), all North Carolina and South Carolina counties (100 and 46, respectively, and all currently in Order 5), 33 Tennessee counties (formerly part of Order 11), 8 counties and 2 cities in Virginia (formerly part of Order 11), and 2 West Virginia counties (formerly part of Order 11).

The proposed Appalachian market reaches from the Atlantic coastline westward to southern Indiana and western Kentucky's border with Illinois. It is surrounded by Illinois on the west, Indiana, northeastern Kentucky, West Virginia and Virginia to the north, the Atlantic ocean on the east, and Georgia, Alabama, western Tennessee and southwestern Kentucky to the south. Measuring the extreme dimensions, this market extends about 625 miles from its northwest corner in Indiana to its southeastern corner on the South Carolina-Georgia border, about 300 miles south-to-north from the South Carolina-Georgia border to the North Carolina-Virginia border, about 500 miles west-to-east from the Appalachian-Southeast markets' border in Tennessee to eastern North Carolina, and about 375 miles west-to-east from the Illinois-Indiana border to West Virginia and Virginia.

The Appalachian market is contiguous to 3 proposed consolidated marketing areas: the Southeast area to the southwest and south, the Central area to the west and the Mideast area to the north. Unregulated counties in West Virginia and State-regulated area in Virginia also border this market to the north. North and South Carolina have almost 500 miles of coastline on the Atlantic Ocean.

In terms of physical geography, similarities exist across the states or areas included in this market. Southern Indiana and central Kentucky are in the Interior Low Plateau region where valleys and steep hillsides are typical. In this market, the Appalachian or Cumberland and Alleghany Plateaus are found in West Virginia, Virginia, Kentucky, Tennessee and northwestern Georgia on the western edge of the Appalachian Mountains. Eastern Tennessee and both western North and South Carolina are in the Blue Ridge region, which is part of the Appalachian Mountain range. Moving eastward toward the Atlantic Ocean, the central part of the Carolinas are in the Piedmont Plateau, with the Atlantic Coastal Plain covering approximately the remaining eastern half of both these states.

Climatic types in this region vary somewhat. Humid subtropical climates typical in most of North and South

Carolina, as well as Virginia (which is affected by elevation differences) and southern Indiana. Humid continental climates are typical for northwestern Georgia, western North and South Carolina and southern West Virginia. Temperate climates are common in eastern Tennessee and central Kentucky.

Much of the proposed Appalachian area does not provide a hospitable climate or topography for dairy farming. As an agricultural pursuit, dairy farming is far down the list in the area, accounting for an average of less than five percent of all receipts from farm commodities for the states involved. Crops such as tobacco, corn and soybeans, and other livestock commodities such as cattle/calves, turkeys and broiler chickens are more prevalent in this region.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 17.1 million. There are 24 Metropolitan Statistical Areas (MSAs) within the proposed marketing area, containing 62.3 percent of the area's population. The largest 17 contain 50 percent of the population of the market. Charlotte, North Carolina, is the largest MSA in the marketing area with a population of 1.3 million. Charlotte is located near the South Carolina border about at the mid point of the North and South Carolina border, and about 250 miles west of the Atlantic coast. Less than 100 miles to the north lies the second-largest MSA of Greensboro-Winston-Salem-High Point, North Carolina, with a population of 1.1 million. About 50 miles east of Greensboro is the third-largest MSA, Raleigh-Durham-Chapel Hill, with one million people. The Raleigh MSA abuts the Greensboro MSA. An additional four North Carolina MSAs are among the largest of the 17 MSAs containing 50 percent of the population of the proposed marketing area, for a combined population of one million. North Carolina is the most populous state in the proposed marketing area with 7.3 million; over half the population of North Carolina is located in these seven MSAs.

South Carolina is the second-most populous state in the proposed consolidated area, with 3.7 million people. The Carolinas contain two thirds of the proposed market's population. Greenville is the largest MSA in the state with a population of 900,000. Greenville is located in the northwest corner of the state. Charleston, the second-largest MSA in South Carolina, with half a million people, is approximately at the midpoint of South Carolina's coast.

The Tennessee portion of the proposed Appalachian market has a population of 2 million, with three MSA's that are included in the largest 17 in the market. These three areas contain 1.6 million, or over 80 percent of the population in that part of Tennessee that is proposed to be part of the Appalachian marketing area. The largest Tennessee MSA is Knoxville, which is in the eastern end of Tennessee near North Carolina. Six counties make up the Knoxville MSA with a combined population of 650,000. The Johnson City-Kingsport-Bristol area, the second-largest Tennessee MSA, is located in the northeastern tip of Tennessee along the Virginia and North Carolina border, and contains almost half a million people. Chattanooga, the third-largest MSA in Tennessee, is located on the Tennessee-Georgia border, and has a population of 446,000. The three MSAs run northeast to southwest just west of the North Carolina border.

The Kentucky portion of the proposed Appalachian market contains 2.7 million people. There are two MSAs within the state that are included in the largest 17 in the market. The largest is Louisville, which lies on the border with Indiana and has a population of one million. Lexington, the second-largest Kentucky MSA, is located in the center of the state and has just under half a million people. Generally, the Kentucky counties in the proposed Appalachian marketing area are not heavily populated. Only two have populations over 100,000. They are Jefferson county, where Louisville is located, and Fayette county, home to Lexington.

Indiana counties in the Appalachian market have a population of .8 million. Only Vanderburgh county has a population over 100,000. Evansville, the only MSA in the portion of Indiana included in the Appalachian market, is in Vanderburgh county. Evansville's MSA contains 289,000 and is located on the Indiana-Kentucky border, near the Illinois state line.

There are seven Georgia counties within the proposed Appalachian marketing area, with a total population of .3 million. Three of them, Catoosa, Dade, and Walker, are part of the Chattanooga MSA. These three counties have a combined population of 124,000. The 12 Virginia counties in the proposed Appalachian market have a population of .3 million. Three of the counties, Scott, Washington and Bristol City, are part of the Johnson City-Kingsport-Bristol MSA. The two West Virginia counties within the Appalachian market have a total population of .1 million.

Fluid Per Capita Consumption

Estimates of fluid per capita consumption within the proposed Appalachian marketing area vary from 15.8 per month for South Carolina to 20.4 pounds per month for Indiana. Use of 17 pounds per month as a weighted average results in an estimated 291 million pounds of fluid milk consumption for the Appalachian marketing area. Appalachian handlers' route disposition within the area during January 1997 totaled 290 million pounds, with another 18 million distributed by producer-handlers, partially regulated plants and other order plants.

Milk Production

In December 1996, over 4,000 producers from 359 counties in 15 states pooled 443.3 million pounds of producer milk on Orders 5, 11 and 46. Approximately 71 percent of the milk pooled on the three orders was produced within the proposed consolidated marketing area.

North and South Carolina are the only States that are located entirely within the proposed consolidated marketing area, and provided nearly all of their producers' milk to Order 5 (encompassing the entire States of North and South Carolina), with 103.7 and 34 million pounds, respectively. Neither of these states produces enough milk to meet even the fluid milk requirements of its population. Kentucky producers pooled 101.1 million pounds on the three orders, with 89 percent produced within the proposed marketing area. Tennessee producers pooled 69.9 million pounds on the three orders, principally on Order 11, with 84 percent produced within the proposed marketing area. Although Virginia is primarily outside the marketing area, producers from 40 Virginia counties supplied 68.5 million pounds of milk for the FO 11 and FO 5 markets in December 1996. Georgia producers pooled 27.6 million pounds and Indiana producers pooled 21 million pounds in December, with the balance of the milk pooled on the three orders originating in Alabama, Connecticut, Illinois, Maryland, Massachusetts, New Mexico, Pennsylvania, and West Virginia.

Thirty-four counties each supplied over 3 million pounds of milk to the three markets consolidated in this proposed area. One such county was located in New Mexico, and another in Pennsylvania. Eight were located in Kentucky, south and southwest of Lexington, and southeast of Louisville.

Eleven were located in North Carolina west of the Raleigh-Durham area, with all but one located near Greensboro, Winston-Salem, Asheville, Charlotte or Durham. Of the two South Carolina counties that supplied over 3 million pounds each, one was located northwest of Columbia, and the other northwest of Charleston. The five Tennessee counties that pooled over 3 million pounds of milk on the three orders are located in northeast and southeast Tennessee; two in the Johnson City-Kingsport-Bristol area and three southwest of Knoxville. Only one of the six counties in Virginia that supplied over 3 million pounds to Orders 5 and 11 is located within the marketing area. Five of the six are located in southwest Virginia, with the other in the northwest part of the State.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 33 distributing plants would be expected to be associated with the Appalachian marketing area, including 29 fully regulated distributing plants (28 currently fully regulated and 1 currently partially regulated), 2 partially regulated (both currently partially regulated), 1 exempt plant, on the basis of having less than 150,000 pounds of total route disposition per month (currently fully regulated), and 1 government agency plant (currently a government agency plant). Four of the 33 distributing plants expected to be associated with the proposed area are not in the area but are located in Virginia, including 2 fully regulated plants (1 currently fully regulated and 1 currently partially regulated), and 2 partially regulated plants (both currently partially regulated). Since October 1995, 2 distributing plants in North Carolina have gone out of business.

Under the proposed Appalachian order, there would be 17 distributing plants in the largest Appalachian MSAs having distributing plants. There would be 3 pool distributing plants in the Greensboro-Winston-Salem-High Point area. The Charleston area would have 2 pool distributing plants. The Johnson City-Kingsport-Bristol, Tennessee, area would have 2 pool distributing plants. The Greenville-Spartanburg-Anderson, South Carolina, area would have 2 pool distributing plants. The Knoxville area would have 1 pool distributing plant and 1 exempt plant, with less than 150,000 pounds of total route disposition per month. The Charlotte, Chattanooga, Lexington, Louisville, and Evansville areas would each have 1 pool distributing plant. The Raleigh-Durham area would have one government agency plant.

Of the remaining 11 distributing plants located in the marketing area, one pool plant would be located in a North Carolina MSA and one pool plant would be located in a South Carolina MSA. The nine remaining distributing plants, all expected to be pool plants, would not be located in MSAs. Four would be in North Carolina, 3 in Kentucky, 1 in Indiana, and 1 in Tennessee.

The 27 fully regulated plants in the Appalachian marketing area had distribution totaling 362 million pounds in January 1997, with eighty percent within the proposed marketing area.

A South Carolina plant included above in the description of fully regulated distributing plants—Superbrand Dairy Products, Inc., in Greenville (about 140 miles northeast of Atlanta)—has a greater proportion of its sales in the Southeast market than in the Appalachian market. This plant currently is locked into regulation under the Carolina order based on its need to procure a milk supply in the Carolina order, although it has greater route disposition in the Southeast. This lock-in is included in the proposed Appalachian order provisions.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Appalachian order, the Class I utilization percentages for the Carolina and Louisville-Lexington-Evansville markets and the former Tennessee Valley market were 84, 78, and 81 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Appalachian order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Carolina, a 3-cent per cwt decrease (from $14.23 to $14.20); Louisville-Lexington-Evansville , a 5-cent per cwt increase (from $13.35 to $13.40); and Tennessee Valley, a 2-cent per cwt increase (from $13.92 to $13.94). The weighted average use value for the consolidated Appalachian order market is estimated to be $13.97 per cwt. For December 1996, combined Class I utilization for Orders 5, 11 and 46 was 75.6 percent based on 335.2 pounds of producer milk used in Class I out of 443.5 million total producer milk pounds pooled.

Other Plants

Also located within the proposed consolidated Appalachian marketing area during May 1997 were 13 supply or manufacturing plants: 4 in Kentucky (1 in the Louisville area), 5 in North Carolina (1 in the Charlotte-Gastonia-Rock Hill area and one in the Greensboro-Winston-Salem-High Point area), 1 in Tennessee, and 3 nonpool cheese plants in Indiana (1 in the Lexington area and one in the Louisville area). Three of the 13 plants are pool plants, or have a ''pool side.'' Two of the three pool plants (one in Kentucky and the one in Tennessee) are ''split plants,'' that is, one side of a plant is a manufacturing facility, and the other side receives and ships Grade A milk, and accounting is done separately. Of these pool plants, the pool sides of the 2 split plants have no primary product, shipping only to distributing plants. The nonpool side of one of these plants manufactures cheese, while the nonpool side of the other manufactures powder. The other pool plant is a supply plant that manufactures primarily Class II products. Of the other nonpool plants in the proposed Appalachian marketing area, 5 manufacture primarily cheese and 5 manufacture primarily Class II products.

Cooperative Associations

In December 1995, there were ten cooperatives representing producers in the proposed Appalachian marketing area. One cooperative pooled milk on all three markets. The Tennessee Valley and Louisville-Lexington-Evansville Federal orders had two cooperatives in common, while the Tennessee Valley and Carolina Federal orders had one cooperative in common. For December 1995, 80 percent of the producer milk pooled on the three markets was associated with cooperatives, and 85 percent of the cooperative-marketed milk was pooled by the four cooperatives that marketed milk on more than one of the three orders.

Criteria for Consolidation

Overlapping route disposition and procurement are the primary criteria on which this proposed consolidation is based. There is a stronger relationship between the three marketing areas involved than between any one of them and any other marketing area on the basis of both criteria. There is also common cooperative association affiliation between the markets.

Discussion of Comments and Alternatives

A comment filed on behalf of Barber Pure Milk Company and Dairy Fresh

Corporation, both in Alabama, proposed that the Florida orders and the Carolina and Tennessee Valley orders be merged with the Southeast. The commenter stated that evidence shows the Florida markets are vitally involved with other areas of the Southeast in Class I sales, obtaining milk supply, and in the disposition of surplus milk. A number of comments, including those filed by Mid-America Dairymen, Inc., and Carolina Virginia Milk Producers Association, urged that the Appalachian area be combined with the Southeast order area, primarily on the basis of milk procurement overlap in south central Kentucky. Several commenters, mainly producers, favored putting all of Kentucky in one order and most suggested adding it to the Southeast. Comments from Trauth Dairy, a Mideast pool plant under this proposed consolidation, did not specifically ask that Kentucky be put into one order, but that Trauth (at Newport, Kentucky) be placed in the same order (Appalachian) as the handlers Trauth described as its primary competition for producer milk and for retail sales in the marketplace.

As discussed under the description of the proposed consolidated Florida market, overlapping milk distribution and procurement involving the three current Florida markets is much greater within the Florida markets than between any of the Florida markets and any other market. As stated in the description of consolidation criteria, areas that supply a minor proportion of an adjoining area's milk supply with a minor proportion of their own total milk production while handlers located in the area are engaged in minimal competition with handlers located in the adjoining area do not necessarily have a strong enough association with the adjoining area to be consolidated with it. It is impossible to find a boundary across which significant quantities of milk are not procured for other marketing areas.

Consolidation of the Carolina and Tennessee Valley markets with the Southeast is not proposed because of the minor degree of overlapping route disposition and producer milk between these areas. Less than one-tenth of the milk produced in the Kentucky counties proposed to be in the Appalachian area would be pooled under the Southeast order, and approximately one-fifth of the production from the Kentucky portion of the Southeast area would be pooled under the Appalachian order.

With the exception of two Appalachian handlers who account for two-thirds of the disposition by Appalachian handlers in the Southeast order area, only a minor proportion of the route disposition of Appalachian handlers is distributed in the proposed Southeast area. In total, Appalachian handlers distribute 11 percent of their route dispositions in the Southeast area, while Southeast handlers distribute less than 3 percent of their route dispositions in the Appalachian area.

There would be very little basis for splitting the current Order 46 area (Louisville-Lexington-Evansville) to include northern Kentucky with the proposed Appalachian area. Only 3 percent of Appalachian handlers' route disposition is distributed within the Ohio Valley order area, while less than one million pounds of Class I sales moves from the Ohio Valley area into the Order 46 area.

Florida

The proposed Florida marketing area is comprised of the three current Federal order marketing areas contained wholly in the state of Florida: Upper Florida (Order 6), Tampa Bay (Order 12) and Southeastern Florida (Order 13). There are 63 counties in this proposed area (40 in Order 6, 13 in Order 12, and 10 in Order 13).

Geography

The proposed Florida marketing area is described geographically as all counties in the State of Florida, with the exception of the four westernmost counties in the Florida Panhandle. This proposed marketing area is a large peninsula, ranging from about 140 miles in width in the north to about 50 miles in width in the south, that extends south from the southeast U.S. about 400 miles between the Atlantic Ocean and the Gulf of Mexico. Also included in the Florida market is approximately 150 miles of the Panhandle, a narrow strip of land extending west along the Gulf of Mexico from the northern part of the peninsula. The water surrounding most of Florida's peninsula constitutes a natural boundary, as east-to-west travel is limited.

Almost all of Florida has a humid subtropical climate. The southern end of the state and the islands south of the peninsula have a tropical wet and dry climate. In general, the state's climate can and does affect levels of milk production negatively. Seasonal variation in production for this market typically is greater than for most other U.S. regions. The importance of dairy farming as an agricultural pursuit in Florida is relatively minor (7 percent of total receipts from agricultural commodities), with several crops contributing more total receipts to the State's income. However, no livestock commodity is as important in Florida as dairy farming.

Population

According to July 1, 1996, population estimates, the total population in the proposed Florida marketing area is 13.8 million. Ninety-three percent of the population of the marketing area is located in Metropolitan Statistical Areas (MSAs). The two largest MSAs are Miami-Fort Lauderdale (Miami) on the eastern side of the southern end of the peninsula, and Tampa-St. Petersburg-Clearwater (Tampa) midway on the western side of the peninsula. Broward and Dade Counties comprise the Miami population center (currently in Order 13) with a population of 3.5 million. The Tampa population center (currently in Order 12) is comprised of Hernando, Hillsborough, Pasco and Pinellas counties with a population of 2.2 million. The six counties in these two population centers represent about 41 percent of the total marketing area population.

Fluid Per Capita Consumption

Florida customarily is considered a deficit milk production state. For much of the year, milk needs to be imported from other states in order to meet the demand for fluid consumption. Based on the population figure of 13.8 million and an estimated per capita fluid milk consumption rate of 17 pounds of fluid milk per month, total fluid milk consumption in the Florida marketing area is estimated at 234.6 million pounds per month.

During October 1995, 205 million pounds of milk were disposed of in the proposed marketing area by all Florida distributing plants. Plants located outside the marketing area (mostly from the Southeast market [Order 7]) had route disposition within Florida of 20 million pounds. The discrepancy between the actual total route disposition of 225 million pounds and the estimated consumption level of 234.6 million pounds may be explained by the older than average population in Florida.

Milk Production

In December 1996, 222 million pounds of milk produced in Florida were pooled in four Federal orders; 98.5 percent of this milk was pooled on the three current Florida orders. About 370 producers located in Florida (96 percent of all Florida producers having association with Federal orders) had producer milk pooled on at least one of the three Florida markets. A small number of Florida producers had producer milk associated with Order 7,

while more than 100 Georgia producers had producer milk associated with the Florida markets. Additionally, 34 million pounds of Georgia milk was pooled on the three Florida markets; 85 percent of this milk went to Order 12.

There are 44 counties in Florida that pooled milk in at least one of the three current Florida orders. Seven of these counties produced 62.6 percent of the milk pooled.

Three counties (Gilchrist, Lafayette and Suwannee, about 75 miles west of Jacksonville) had 53.9 million pounds of producer milk. For these three counties, 85.5 percent of the December 1996 producer milk was pooled on the Tampa Bay order, which is located approximately 150 miles southeast of the counties.

More than 80 percent of Clay County's producer milk was pooled in Order 6. This county is in the Jacksonville MSA, which is the largest population center in Order 6.

About 20 million pounds of producer milk came from Hillsborough and Highland Counties, both part of the Order 12 market. However, this milk was pooled about evenly between Orders 12 and 13.

Okeechobee County, located in the Order 13 marketing area about 125 miles northwest of the Miami area, is by far the largest milk producing county in Florida. The county had 54.5 million pounds of producer milk in December 1996, almost all of which was pooled on Order 13.

Distributing Plants—Route Distribution

Using plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 15 plants would be expected to be fully regulated under the proposed Florida market. Five of these plants are located in the Miami MSA and three in the Tampa MSA. Three plants are located in mid-Florida, one in the Orlando area and two in the Lakeland-Winter Haven area. Three more are located in northeast Florida; two in the Jacksonville area, and one in Daytona Beach. Two plants having route disposition of less than 150,000—one in the Tampa MSA and the other in Citrus County (north of Tampa and west of Orlando)—would be exempt.

Slightly less than two-thirds of the proposed market's population is contained in the MSAs where fully regulated plants are located.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Florida order, the Class I utilization percentages for the Upper Florida, Tampa Bay, and Southeastern Florida markets were 85, 90, and 91 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Florida order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Upper Florida, an 11-cent per cwt increase (from $14.67 to $14.78); Tampa Bay, a 5-cent per cwt decrease (from $15.09 to $15.04); and Southeastern Florida, an 11-cent per cwt decrease (from $15.42 to $15.31). The weighted average use value for the consolidated Florida order market is estimated to be $15.05 per cwt. For December 1996, combined Class I utilization for the three Florida markets was 83.9 percent based on 211,712,000 pounds of producer milk used in Class I out of 252,402,000 total producer milk pounds.

Other Plants

Also located within the Florida marketing area are four supply or manufacturing plants, three of which are not associated with the current markets' pools. Three ice cream plants are located in the Tampa area and one pool supply plant is in the Jacksonville area.

Cooperative Associations

Four cooperatives market milk in the Florida markets, and represent nearly 100 percent of the milk marketed. Florida Dairy Farmers Association is the only cooperative with membership in all three current markets. In December 1995, 60 percent of the producer milk associated with the three markets came from members of this cooperative. During this same month, Tampa Independent Dairy Farmers Association members were affiliated with the Tampa Bay and Southeastern Florida markets, while Mid-America Dairymen, Inc., and Select Milk Producers, Inc., members had producer milk on the Tampa Bay pool.

Criteria for Consolidation

As suggested in both the initial and Revised Preliminary Reports on Order Consolidation, the consolidated Florida market should encompass the current marketing areas of the Upper Florida, Tampa Bay and Southeastern Florida Federal milk orders. Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders, and into and out of the area.

Discussion of Comments and Alternatives

One comment, filed on behalf of two Alabama handlers, suggested that the order areas of Florida, the Carolinas and Tennessee Valley be merged with the Southeast. The comment stated that the Florida markets are vitally involved with other areas of the southeast in Class I sales, procurement of milk supplies, and disposition of surplus milk. Although there is some overlap in these functions between the Florida markets and the Southeast order area, it is not great enough to warrant the combination of these three order areas, which have a greater degree of affinity among themselves than with any other market, with the Southeast. Given the closeness of the relationship between the current Florida markets, and the lack of any significant overlap of sales or production with other order areas, no alternatives other than those discussed were considered with regard to this area.

Southeast

The proposed Southeast marketing area is comprised of the current Southeast (Order 7) marketing area, portions of the current Southwest Plains (Order 106) marketing area in northwest Arkansas and southern Missouri, and six southeastern Missouri counties from the current Southern Illinois-Eastern Missouri (Order 32) marketing area. Also included are 16 currently unregulated Missouri counties, 21 currently unregulated Kentucky counties, and 1 Kentucky county that currently is part of the Louisville-Lexington-Evansville (Order 46) marketing area. There are 572 whole counties and 1 partial county (Pulaski County, Missouri) in this proposed area.

Geography

The Southeast market is described geographically as follows: all counties in Alabama, Arkansas, Louisiana, and Mississippi (67, 75, 64 and 82 counties, respectively), 4 in Florida, 152 in Georgia, 44 whole and 1 partial in Missouri, 62 in Tennessee and 22 in Kentucky (one—Logan County—currently is in Order 46, and 21 currently are unregulated). Of these 21 counties, 14 were part of the former

Paducah, Kentucky (Order 99) marketing area. Eleven Arkansas and 23 Missouri counties (including part of Pulaski County) are part of the current Order 106 marketing area. Six Missouri counties are part of the current Order 32 marketing area. Sixteen southeastern Missouri counties currently are unregulated (4 of these were part of the former Paducah Federal milk order).

The Southeast market spans the southeastern area of the United States from the Gulf of Mexico and the Alabama/Georgia-Florida border north to central Missouri, Kentucky, Tennessee and South Carolina, and from the Atlantic Ocean west to Texas, Oklahoma, and Kansas. Measuring the extreme dimensions, this market extends about 575 miles north to south from central Missouri to southern Louisiana and 750 miles west to east from Louisiana's border with Texas to the Atlantic Ocean coast in southern Georgia.

The Southeast marketing area is contiguous to 4 other proposed consolidated marketing areas: Florida to the southeast, the Southwest to the west, the Central to the northwest and the Appalachian to the northeast and east. Georgia's coastline on the Atlantic Ocean is about 100 miles in length, while western Florida, Alabama, Mississippi and Louisiana extend about 600 miles along the Gulf of Mexico coastline. Also contiguous to the current Southeast market are currently unregulated counties in Texas, Missouri, Kentucky (and as of October 1, 1997, the Tennessee Valley [Order 11] marketing area). The proposed consolidated marketing areas would encompass all of these counties into the Southwest, Central, Appalachian or Southeast marketing areas, with some currently-unregulated counties in central Missouri remaining unregulated under this proposal.

In terms of physical geography, the Southeast region is generally flat or gently rolling low-lying land. Relatively higher elevations which might potentially form natural barriers or obstruct easy transportation exist in northwest Arkansas and northeast Georgia.

Moving from the south to the north of the Southeast market, climates range from humid subtropical in coastal areas to warm and humid or humid continental to temperate in Tennessee and Kentucky. Warm, humid summers and mild winters are typical in the Southeast. These types of climates can severely limit the production level of dairy herds in the summer.

Population

According to July 1, 1996, population estimates, the total population in the proposed Southeast marketing area is 26.7 million. The 42 Metropolitan Statistical Areas (MSAs) in the proposed market account for 62 percent of the total marketing area population. Almost half of the Southeast population is located in the 17 most populous MSAs. Eight MSAs have populations greater than 500,000 each; their total population is about 35 percent of the Southeast population. Because of the large number of MSAs in the Southeast market and also because no large (i.e., greater than 500,000) population centers are added to this market under this proposal, only those areas with populations greater than 500,000 are described in greater detail.

Over 25 percent of the Southeast market's population is located in Georgia, the most populous of the Southeast market states, with 7.1 million people. Almost half of Georgia's population is concentrated in the Atlanta MSA, located about 60 miles south of the Southeast-Appalachian marketing area boundary in the northwest portion of the state. Atlanta is the largest city in the Southeast market with a population of 3.5 million.

With 4.3 million people, Alabama is the Southeast market area's third most populous state. Birmingham and Mobile, the state's two largest MSA regions, are among the top eight in population in the Southeast. The Birmingham area has a population of about 900,000 and ranks 5th in size among all Southeast area MSAs. Birmingham is located about 150 miles west of Atlanta in north central Alabama. The Mobile area is a Gulf of Mexico port city in southwestern Alabama. With a population of 520,000, Mobile is the 8th largest population center in the Southeast market area.

Louisiana is the second most populated state in the Southeast market area with 4.4 million people. Two of the Southeast's 8 largest MSAs are located in Louisiana—New Orleans, the second largest MSA with 1.3 million people and Baton Rouge, the 6th largest MSA with almost .6 million people. New Orleans is located in the state's ''toe'' in southeastern Louisiana. Baton Rouge also is located in Louisiana's ''toe,'' about 80 miles west of New Orleans.

Arkansas has a total population of 2.5 million—2 million from the current Southeast marketing area and an additional 500,000 from the Arkansas portion of the Southwest Plains marketing area. The Little Rock-North Little Rock, Arkansas (Little Rock) MSA, in the center of Arkansas, has the 7th largest population concentration in the Southeast market area with 550,000.

The portion of Tennessee in the Southeast marketing area is the fourth most populated with 3.3 million people and is home to the third and fourth largest MSAs in the Southeast. The Nashville area, with a population of 1.1 million, is located in central Tennessee. The Memphis, Tennessee/Arkansas/Mississippi MSA, also with a population of 1.1 million, is located near these three states' borders.

Other states or portions of states in the Southeast marketing area do not have MSAs with greater than 500,000 population. Mississippi, the Southeast's 5th most populous state, has a total population of 2.7 million. The Missouri, Florida and Kentucky counties in the Southeast market have populations of 1.3 million, 590,000 and 520,000, respectively.

Fluid Per Capita Consumption

Fluid per capita consumption estimates vary throughout the Southeast market from a low of 16 pounds of fluid milk per month in Mississippi to a high of 19 pounds in Arkansas and Kentucky. Multiplying the individual states' consumption rates by their population results in an estimated fluid milk consumption rate of 467 million pounds of fluid milk per month for the Southeast marketing area. With route distribution from the current Southeast order handlers (not including the 3 Arkansas and Missouri plants) equaling 334 million pounds within the Southeast marketing area, route distribution from these handlers is approximately 100 million pounds less than the expected consumption.

In January 1997, Georgia had the greatest ''deficit''—with route distribution from Order 7 handlers falling about 42 million pounds short of the 122 million pounds of expected consumption. The state's fluid needs were met by the route distribution of about 44 million pounds into Georgia by fully regulated handlers in the proposed Appalachian and Florida markets.

Other states' ''deficits'' generally ranged from 4 to 11 million pounds. It is likely that handlers regulated under other Federal orders had distribution into the Southeast area. Alabama is the only state in which the amount of route distribution by Order 7 handlers is about the same as the expected consumption level.

Milk Production

In January 1997, 4,180 producers from 388 counties pooled 477.4 million pounds of producer milk on the current

Southeast market. Over 85 percent of the Southeast's producer milk came from Southeast market area counties. Of the 388 counties, 19 pooled over 5 million pounds each, accounting for 39 percent of Order 7's producer milk. Of these 19 counties, 2 Texas counties are located outside the proposed Southeast market area. Because of the large number of counties, only the locations for those top 19 production counties are described in greater detail. However, the volume of producer milk, number of producers (farms) and number of counties is provided for each state within the market area.

Almost 73 million pounds of milk were pooled on the Southeast market from 581 producers in 28 Louisiana parishes in January 1997. Top production parishes are Tangipahoa, Washington and St. Helena, all located in the state's ''toe,'' north of New Orleans and northeast of Baton Rouge, each bordering Mississippi. Another high production area is centered on De Soto Parish in northwestern Louisiana. These four parishes account for over 62 million pounds of producer milk, with 76 percent coming from Tangipahoa and Washington parishes.

Almost 67 million pounds of milk were pooled on the Southeast market from 331 producers in 68 Georgia counties in January 1997. Of this volume, 64 million came from 312 producers in 64 Georgia counties in the Order 7 marketing area. The balance is associated with Georgia producers located in the marketing area of the recently-terminated Order 11 (Tennessee Valley). Top production counties are Putnam, Morgan and Macon, which pooled 27 million pounds of producer milk on Order 7.

About 65 million pounds of milk were pooled on the Southeast market from 580 producers in 46 Tennessee counties in January 1997. Of this volume, 62 million came from 562 producers in 42 Tennessee counties in the Order 7 marketing area. The balance is associated with Tennessee producers located in the marketing area of the recently-terminated Federal Order 11. Two high production counties in the state are Marshall and Lincoln, located in south central Tennessee. These counties contributed over 12 million pounds of producer milk to the Order 7 pool in January 1997.

About 61 million pounds of milk were pooled on the Southeast market from 443 producers in 48 Mississippi counties in January 1997. Top production counties are Walthall and Pike, in southern Mississippi on the state's border with Louisiana. These two counties adjoin the heavy milk production area in Louisiana. The counties contributed 15 million pounds of producer milk to the Order 7 pool in January 1997.

About 32 million pounds of milk were pooled on the Southeast market from 408 producers in 19 Kentucky counties in January 1997. Additionally, 116 producers in 15 of these counties pooled almost 9 million pounds of producer milk on Orders 11 and 46 (Louisville-Lexington-Evansville). Two counties, Barren and Monroe, contributed over 13 million pounds of producer milk. These contiguous counties are in south central Kentucky about 80 miles northeast of Nashville, Tennessee.

Four Missouri counties—Wright, Texas, Laclede and Howell— pooled 33 million pounds of producer milk on Order 7. All of these counties currently are located in the Order 106 (Southwest Plains) marketing area in southern Missouri.

Other Southeast marketing area states or areas contribute producer milk to the Southeast marketwide pool. About 37 million pounds of milk were pooled on the Southeast market from 205 producers in 51 Alabama counties, and 25 million pounds were pooled from 343 producers in 39 Arkansas counties. Sixteen Florida producers from 6 counties (2 in the Southeast market area) pooled 3.5 million pounds on Order 7 in January 1997.

In January 1997, Order 7 producer milk also originated in Missouri counties not included in the Southeast marketing area, Texas, New Mexico, Indiana and Oklahoma. Large amounts of milk from Missouri (21 million pounds in addition to the 33 million described previously) and Texas (46 million pounds—20 million from Hopkins and Erath Counties) were associated with the Order 7 pool. It should be noted that milk does not need to be physically received at a Federal order plant regulated under the order in which the milk is pooled.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 47 distributing plants located in the proposed Southeast marketing area would be expected to be associated with the Southeast market (including the added territory in northwestern Arkansas and southern Missouri). These plants include 36 fully regulated distributing plants, 2 partially regulated, one exempt plant based on size, one producer-handler, and 7 government agency plants (including university and state prison plants). None of these plants' regulatory status is expected to change as a result of the consolidation process. Of the 36 fully regulated plants, 18 are located in the largest eight MSA regions. One distributing plant located in the proposed Appalachian marketing area that has more than half of its route disposition within the Southeast marketing area would be locked into regulation under the Appalachian order.

Since October 1995, it is known that 7 distributing plants (6 fully regulated and 1 exempt) have gone out of business. These plants were located in Alabama, Arkansas, Georgia, and Missouri (1 plant each), and Mississippi (3 plants). Also, one fully regulated distributing plant, Centennial Dairy Farms, Inc., in Atlanta, GA, began packaging and distributing products in October 1996. Information for this plant is included in route dispositions reported for January 1997, the month used in this analysis.

Of the 47 distributing plants, Georgia has 7; Louisiana, 12; Mississippi, 6; Alabama, 7; Arkansas, 6; Tennessee, 5; Missouri, 2; and Kentucky, 2. No distributing plants are located in the Florida counties included in the Southeast market area.

In January 1997, the 34 plants fully regulated under Order 7 at that time had route distributions totaling 372 million pounds. About 90 percent, or 334 million pounds, was distributed within the Order 7 marketing area. Route distribution volumes from the 11 nonpool distributing plants were relatively insignificant and are not included here. These data do not include distribution information from the 3 fully regulated plants in northwest Arkansas and southern Missouri that would be included in the proposed Southeast pool. All 3 plants are operated by one handler; thus this data is proprietary information and is restricted. These plants' information is included, however, in the market information presented in the Central market discussion.

In Georgia, three pool distributing plants are located in the Atlanta area, with 2 others elsewhere in the State. Georgia also has 1 partially regulated handler and 1 government agency (state prison) plant.

Nine of Louisiana's 12 distributing plants currently are and would continue to be fully regulated (pool plants) in this proposed marketing area. Five of these 9 are located in either the New Orleans or Baton Rouge areas (2 and 3, respectively). Four other pool distributing plants are located in Louisiana. The remaining three plants

are affiliated with universities or the state prison.

Four of Mississippi's 6 currently operational distributing plants would be fully regulated pool plants in the Southeast market. Two universities also have plants.

All seven of Alabama's distributing plants are fully regulated. One is located in the Birmingham area and 2 are located in the Mobile area. Of the remaining four, 2 are in northern Alabama, one is in central Alabama, and one is in the state's southeastern corner.

Four of Arkansas' 6 currently operational distributing plants are fully regulated; two are in the Little Rock area, and the other 2 are located in northwest Arkansas. Also located within Arkansas are an exempt distributing plant and a state prison plant. All five of Tennessee's distributing plants are fully regulated. Three of the 5 are located in the Nashville area and the remaining two are in the Memphis area.

Two distributing plants that would be fully regulated under the Southeast market are located in the currently unregulated Kentucky counties that are proposed to be added to this marketing area. One is located in Fulton in the southwest corner of Kentucky on the Tennessee border, and the other about 30 miles east of Fulton.

Two Missouri plants are located in the counties proposed to be included in the Southeast area. One fully regulated plant is located in Springfield; a partially regulated plant based on October 1995 data, but exempt (by virtue of having less than 150,000 pounds of route dispositions) based on January 1997 data, is located northeast of Springfield.

Utilization

According to January 1997 pool statistics, the Class I utilization for the Southeast market was about 78 percent. Changes to this percentage are likely to occur with the addition of 3 pool plants or potential changes in plants' regulatory status. It is not expected that the addition of the plants would have a significant impact on producer returns in the Southeast as a result of consolidation. For December 1996, Class I utilization for the Southeast market was 73.4 percent based on 339,275,000 pounds of producer milk used in Class I out of 462,455,000 total producer milk pounds.

Other Plants

Also located within the Southeast marketing area during May 1997 are 37 supply or manufacturing plants: 1 in Kentucky, 5 in Alabama (including 1 in the Birmingham area), 5 in Arkansas (including 1 in the Little Rock area), 7 in Georgia (including 4 in the Atlanta area), 3 in Louisiana (including 1 in the Baton Rouge area), 11 in Missouri, 2 in Mississippi, and 3 in Tennessee (including 1 each in the Memphis and Nashville areas). Eight of the 37 plants are pool plants. Of these pool plants, 2 primarily ship to distributing plants, 3 manufacture cheese, 1 manufactures Class II products, 1 manufactures powder and 1 primarily manufactures other products. Of the Southeast marketing area's 28 nonpool plants, 13 manufacture primarily Class II products, 3 manufacture cheese, 10 manufacture primarily other products, and 1 each manufacture primarily butter and cheese. One plant is a ''split plant,'' with one side serving as a manufacturing facility primarily for Class II products, while the other side receives and ships Grade A milk. Accounting is done separately.

Cooperative Associations

In December 1995, six cooperative associations represented members marketing 78 percent of the milk pooled on the Southeast market: Mid-America Dairymen, Inc.; Associated Milk Producers, Inc., Southern Region; Carolina-Virginia Milk Producers Association, Inc.; Arkansas Dairy Cooperative Association (ADCA); Vanguard Milk Producers Cooperative (VMPC); and National Farmers Organization, Inc. ADCA and VMPC members marketed milk only in the Southeast Federal order, while the other 4 cooperatives' members marketed milk in multiple Federal orders.

Criteria for Consolidation

Retention of the Southeast marketing area as a single area is based on overlapping route dispositions within the marketing area to a greater extent than with other marketing areas. Procurement of producer milk also overlaps between states within the market. The need for milk from outside the market is primarily seasonal, and is not as great as the volume of milk that is pooled from other areas. There is common cooperative association membership within the marketing area.

The addition of northwest Arkansas and southern Missouri to the marketing area is primarily in response to comments received during the public comment period. The association that exists between these 2 areas, the Southeast marketing area, and the proposed Central market should continue to be monitored throughout the reform process.

Discussion of Comments and Alternatives

Several commenters, primarily producers, favored putting Kentucky all in one order and most suggested adding it to the Southeast. In a comment that was considered in the Revised Preliminary Consolidation Report, Georgia Milk Producers had suggested dividing the Southeast Order on the state line between Mississippi and Alabama. Over 35 form letters opposed the separation of the Southeast marketing area between Mississippi and Alabama. A more recent Georgia Milk Producers comment rescinded this position.

A comment filed on behalf of Barber Pure Milk Company and Dairy Fresh Corporation, both in Alabama, suggested that the Florida orders and the Carolina and Tennessee Valley orders be merged with the Southeast. The comment stated that evidence shows the Florida markets are vitally involved with other areas of the Southeast in Class I sales, obtaining milk supply, and in the disposition of surplus milk. As discussed under the description of the proposed consolidated Florida market, the greatest overlap in sales distribution and milk supply involving the Florida markets occurs between the three current Florida markets. A discussion of the issue of consolidating the Carolina and Tennessee Valley markets with the Southeast can be found in the description of the proposed Appalachian market.

Approximately 10 commenters suggested that southern Missouri and/or northwest Arkansas should be included in the Southeast marketing area. Mid-Am supported making both areas part of the Southeast Federal order to correct the inequity perceived by the cooperative to be caused by southwest Missouri manufacturing plants balancing the Southeast without being able to pool, and inefficient milk movements caused by blend price discrepancies. AMPI concurred, suggesting that southern Missouri historically has been a supply source for the Southeast. The Director of the Missouri Department of Agriculture contended that southern Missouri has the largest concentration of milk production in the state and serves as the reserve supply for southeastern markets. The Missouri Farm Bureau Federation also suggested including some southern Missouri counties with the Southeast. One producer also supported including southern Missouri in the Southeast Marketing Area.

It appears that a substantial amount of the milk supply pooled under the

Southeast order has been shifted from Texas to Missouri. Between December 1996 and May 1997 the percentage of milk pooled under the Southeast order that was produced in Texas declined from over 10 percent to under 7 percent. During the same time period, the Missouri share of the Southeast pool increased from 10 percent to 15 percent. This shift may reflect a change in the relative price relationships between the Southeast, Texas and Southwest Plains orders, which could be subject to change in the opposite direction in the future. While the percentage of southern Missouri milk pooled under the Southeast order increased from less than one-third to nearly one-half, less than one-half of the volume pooled on the Southeast order is actually delivered to Southeast plants, with over half of the volume being diverted to manufacturing plants in Missouri, Illinois, Minnesota and Wisconsin.

Production pooled under the Southeast order from the northwest Arkansas counties located in the current Southwest Plains marketing area increased from less than 10 percent of those counties' production in December 1996 to about 13 percent in May 1997. Arkansas milk represented 5 percent of the total milk pooled under the Southeast order in December 1996, and just under 6 percent in May 1997.

The commenters state that if the portions of Arkansas and Missouri that currently are in the Southwest Plains marketing area are shifted to the Southeast order area, the route disposition by distributing plants located within this area would become in-area dispositions from Southeast pool distributing plants. The most recent information available shows that more than half of the dispositions from the three plants in question would be within the Southeast marketing area if the area in which they are located were part of the Southeast area.

Several commenters also suggested that the proposed consolidated Appalachian order area (the current Carolina and Louisville-Lexington-Evansville areas and the former Tennessee Valley area) be combined with the Southeast marketing area because of a common procurement area in south central Kentucky for the Southeast and Tennessee Valley markets, causing different blend prices to exist. This issue is discussed in some detail under the description of the proposed consolidated Appalachian market.

A number of comments from east Texas suggested combining that portion of Texas with the Southeast marketing area to resolve inequities identified by the commenters. The commenters claimed that due to its heat, humidity and rainfall, milk production conditions in eastern Texas have more in common with the Southeast than with the Southwest area. The dry climate of Central Texas and New Mexico permits dairies to become much larger and produce 10–15% more milk per cow, at a lower cost than East Texas producers are able to achieve. This issue is discussed in detail under the description of the proposed consolidated Southwest market area.

Mideast

The proposed consolidated Mideast marketing area is comprised of the current Ohio Valley (Order 33), Eastern Ohio-Western Pennsylvania (Order 36), Southern Michigan (Order 40), part of the Michigan Upper Peninsula (Order 44), and Indiana (Order 49) marketing areas plus 6 currently unregulated Indiana counties, 2 whole and 3 partial currently unregulated Michigan counties, and 6 whole and 3 partial currently unregulated Ohio counties. There would be 304 whole and 2 partial counties in this proposed area.

Geography

The Mideast market is described geographically as follows:

Indiana—72 counties (64 currently in Order 49, 2 currently in Order 33, and 6 currently unregulated on the western edge of the State, just south of the northwest corner).

Kentucky—18 counties (all currently in Order 33).

Michigan—77 counties. Two whole and 3 partial counties currently are unregulated. The rest of the area currently is included in Orders 40, 44, 49, and 33. Of the total 83 Michigan counties, only 6 in the western end of the Upper Peninsula are not included in the proposed Mideast marketing area.

Ohio—all 88 counties. Six whole and 3 partial counties currently are unregulated. The rest of the State currently is included in Orders 33 and 36.

Pennsylvania—12 whole and 2 partial counties, currently in the Order 36 area.

West Virginia—37 counties; 20 currently in Order 33, 17 currently in Order 36.

The proposed Mideast marketing area lies directly south of the Great Lakes, with the State of Michigan enclosed on the east and west sides by Lakes Huron and Michigan. On the eastern border of the marketing area, between the proposed Mideast and Northeast marketing areas, is Pennsylvania State-regulated territory and the Allegheny and Appalachian Mountains.

The east-to-west distance across the proposed marketing area is approximately 450 miles, from locations on the eastern edge of the area in western Pennsylvania to the border of Indiana and Illinois. Northwest to southeast, from Marquette, Michigan, in the Upper Peninsula to the northeast area of Kentucky in the marketing area is just over 800 miles. From the northern tip of lower Michigan to southern Indiana the more direct north-south distance is 530 miles.

The proposed Mideast marketing area is contiguous to 3 other proposed consolidated marketing areas. The proposed Central marketing area would provide the western border of the Mideast marketing area along the Indiana-Illinois border, and the proposed Appalachian area would provide the southern boundary. The western end of Michigan's Upper Peninsula, part of the proposed Upper Midwest area, would adjoin the Mideast portion of the Upper Peninsula.

In terms of physical geography, most of the proposed Mideast marketing area is at low elevations, and relatively flat. The climate and topography are favorable to milk production, with dairy being the number one agricultural commodity in terms of financial receipts in the State of Michigan in 1996. Dairy also ranks high in terms of financial receipts in the rest of the area; 3rd in Ohio and West Virginia, and 5th in Indiana.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 31 million. The 34 MSAs in the proposed Mideast marketing area include 79.2 percent of the area's population. Over 55 percent of the area's population is contained in the 8 most populous MSAs, which each have over 950,000 people. Two-thirds of the population is located in the states of Michigan and Ohio.

The Mideast area's largest and 7th largest of the 34 MSAs are located in Michigan. Detroit-Ann Arbor-Flint, with 5.1 million population, is the largest MSA, and is located in the southeast portion of the state between Lakes Huron and Erie. Grand Rapids-Muskegon-Holland is the 7th largest Mideast MSA, is located approximately 150 miles west-northwest of Detroit, and has a population of 1 million. These two MSAs contain two-thirds of the population of Michigan. There are 5 other MSAs in Michigan. Three have approximately 400,000 population each, and the other two average approximately 150,000 apiece. Eighty-four percent of the population of

Michigan is located in these 7 MSAs, all in the lower half of southern Michigan.

Four of the 8 largest Mideast MSAs are located in the State of Ohio. These are: (1) Cleveland-Akron, the second-largest, with a population of 2.9 million, located on Lake Erie in northwestern Ohio; (2) Cincinnati-Hamilton, OH-KY-IN, the 4th largest, with a population of 1.9 million, located in the southwest corner of Ohio; (3) Columbus, the 6th largest, with a population of 1.4 million, located approximately midway between Cincinnati and Cleveland; and (4) Dayton, the 8th largest, with a population of .95 million.

There are 6 additional MSAs in Ohio, 2 with populations of approximately .6 million each, 1 with a population of .4 million, and 3 that average just over 150,000 each. Eighty-one percent of the population of Ohio is located in MSAs, most in the northern part of the State.

The third-largest MSA in the Mideast area is Pittsburgh, Pennsylvania, with a population of 2.4 million. Pittsburgh is 127 miles southeast of Cleveland. There are two smaller MSAs in the Pennsylvania portion of the proposed Mideast marketing area, having an average population of about 200,000 each. Eighty-seven percent of the population of the Pennsylvania portion of the Mideast area is located in MSAs.

Indianapolis, Indiana, is the 5th largest MSA in the proposed Mideast marketing area, with a population of 1.5 million. Indiana contains 9 additional MSAs, 2 with populations of .5 and .6 million, and 7 others that average 155,000 population. All but 2 of the 9 smaller MSAs are located north of Indianapolis. Seventy-four percent of the population of the portion of Indiana that is in the proposed Mideast area is located in MSAs.

The portion of West Virginia that is within the proposed Mideast area contains 4 MSAs, 3 of which are located on the West Virginia-Ohio border, along the Ohio River. The population of these MSAs averages just over 200,000. Forty-five percent of the population of the West Virginia portion of the proposed Mideast area is located in MSAs.

Fluid Per Capita Consumption

Estimates of fluid per capita consumption within the proposed Mideast area vary from 18.75 pounds per month for Michigan to 20.4 pounds per month for Indiana. Use of 19 pounds per month as a weighted average results in an estimated 588 million pounds of fluid milk consumption for the Mideast marketing area. Mideast handlers' route disposition within the area during October 1995 totaled 537 million pounds, with another 27 million distributed by 20 handlers fully regulated under other orders. An additional 1.9 million pounds was distributed by 8 handlers that would be partially regulated under the proposed Mideast order, 6 handlers that would be regulated under other consolidated orders and 2 under the proposed Mideast order. One million eight hundred thousand pounds was distributed by producer-handlers, and less than 1 million pounds by 2 handlers that would be exempt under this proposed rule on the basis of each having less than 150,000 pounds of route disposition per month.

Milk Production

In December 1996, over 12,000 producers from 376 counties in 11 states pooled 1.1 billion pounds of milk on Federal Orders 33, 36, 40, 44 and 49. Over 90 percent of this producer milk came from Mideast marketing area counties. The States of Indiana, Michigan, Ohio and Pennsylvania supplied 93 percent of the milk (13%, 37.9%, 30.4% and 11.6%, respectively), with 89 percent coming from counties that would be in the proposed Mideast area. Just over two-thirds of the milk pooled under these orders was produced in Michigan and Ohio counties located within the proposed consolidated marketing area.

Other states pooling milk on the orders proposed to be consolidated in the proposed Mideast area were Illinois (1.4%), Kentucky (0.5%), Maryland (0.4%), New York (2.5%), Virginia (0.1%), West Virginia (1.0%), and Wisconsin (1.2%). These states contributed a total of 7.2 percent of the milk pooled on the 5 orders.

Sixty-three of the counties that had production pooled under the five current orders supplied more than 5 million pounds of milk each during December 1996. Seven of the counties were in northern and northeast Indiana, over 100 miles from Indianapolis; 11 were in western Pennsylvania—7 of them within 100 miles of Pittsburgh, and the others, including those with the most production (10–25 million pounds), in the northwest corner of the state. Twenty-six Michigan counties pooled more than 5 million pounds each under the 5 orders, including 15 counties with more than 10 million pounds and 2 counties with more than 25 million pounds. All of these counties are located within 110 miles of Detroit or Grand Rapids, the two largest MSAs in Michigan. The heaviest milk production area of Ohio is the northeast quadrant of the State and within 50 miles of the Akron-Cleveland MSA, including 6 counties supplying over 10 million pounds each during December 1996, and 1 county pooling over 40 million pounds. A smaller production area in Ohio is located in the central portion of the western edge of the State within 80 miles of the Dayton MSA, and includes two counties with over 10 million pounds production and 1 county with over 20 million. The only population centers of the marketing area that do not appear to have adequate supplies of nearby milk are Indianapolis and Cincinnati, in the southern portion of the area.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports, with the pooling standards used in the Revised Preliminary Report adjusted to 30 percent of route dispositions as in-area sales, updated for known plant closures through May 1997, 78 distributing plants would be expected to be associated with the Mideast marketing area, including 56 fully regulated distributing plants (55 currently fully regulated, and 1 currently partially regulated), 4 partially regulated (all currently partially regulated), 2 exempt plants that would have less than 150,000 pounds of total route disposition per month (both currently fully regulated), and 16 producer-handlers (all currently producer-handlers). Four of these 78 distributing plants would not be in the marketing area, including 3 partially regulated plants (all currently partially regulated) and 1 producer-handler (currently a producer-handler). Since October 1995, 8 distributing plants (3 in Pennsylvania, 2 in Ohio, 1 in West Virginia, 1 in Indiana and 1 in Michigan), have gone out of business.

There would be 43 distributing plants in the 8 Mideast MSA's that each have over a million people (including Dayton-Springfield which has .95 million). Twenty-nine of these plants would be pool plants—6 in the Pittsburgh area, 6 in the Detroit area, 4 each in the Grand Rapids and Cleveland areas, 3 each in the Indianapolis and Cincinnati areas, 2 in Columbus and 1 in Dayton. Eleven of the plants in the large MSA areas would be producer-handlers, 2 would be exempt on the basis of having less than 150,000 pounds of milk per month in Class I route dispositions, and 1 partially regulated.

Of the remaining 31 distributing plants located in the marketing area, 19 would be located in other MSA's as follows: 5 pool plants and 1 producer-handler in Ohio; 5 pool plants in Indiana; 4 pool plants in Michigan; 2

pool plants in Pennsylvania; 1 pool plant in Kentucky; and 1 pool plant in West Virginia. Twelve of the remaining distributing plants would not be located in MSA's. Three of these pool plants and 2 producer-handlers would be located in Michigan, 4 pool plants would be located in Ohio; 2 pool plants would be located in Indiana; and 1 producer-handler would be located in West Virginia.

There are 4 distributing plants that would not be in the marketing area. These would be 2 partially regulated plants and 1 producer-handler in Pennsylvania, and 1 partially regulated plant in Virginia.

The in-area route disposition standard has been adjusted to 30 percent of total route dispositions from the 15 percent standard that was used for all of the suggested consolidated areas in the Revised Preliminary Report. This adjustment has been made to assure that State-regulated plants in Virginia and Pennsylvania that have sales in the proposed marketing area would not be pooled under Federal order regulation.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Mideast order, the Class I utilization percentages for the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, Michigan Upper Peninsula, and Indiana markets were 59, 57, 48, 79, and 66 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Mideast order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Ohio Valley, a 1-cent per cwt decrease (from $13.00 to $12.99); Eastern Ohio-Western Pennsylvania, a 10-cent per cwt decrease (from $13.07 to $12.97); Southern Michigan, an 8-cent per cwt increase (from $12.75 to $12.83); Michigan Upper Peninsula, a 20-cent per cwt decrease (from $12.81 to $12.61); and Indiana, a 5-cent per cwt decrease (from $12.97 to $12.92). The large decrease for Michigan Upper Peninsula is because of its current individual handler pool provisions (very little reserve milk is pooled under Order 44—instead, it is pooled on the Southern Michigan order). For December 1996, combined Class I utilization for Orders 33, 36, 40, 44 and 49 was 52 percent based on 563.4 million pounds of producer milk used in Class I out of 1082 million total producer milk pounds pooled.

The Mideast is one of two proposed consolidated marketing areas that would have a significantly higher-than-average percentage of its milk used in Class II. Currently, the Southern Michigan, Ohio Valley and Indiana markets have Class II utilization over 20 percent. When the markets are combined the average for the consolidated market will be just under 20 percent.

Other Plants

Also located within the Mideast marketing area during May 1997 were 59 supply or manufacturing plants: 1 in Charleston, West Virginia, 4 in Pennsylvania, 18 in Michigan, 9 in Indiana and 27 in Ohio. Nine of the 59 plants are pool plants. Of these pool plants, 6 are supply plants—1 manufactures primarily Class II products, 3 manufacture primarily powder, and 2 have no primary product, only shipping to distributing plants. Three pool plants are manufacturing plants, manufacturing primarily cheese. Of the 50 nonpool plants in the Mideast marketing area, one is a supply plant that manufactures primarily cheese. The other 49 nonpool plants are manufacturing plants. In this area of high Class II use, 28 of the nonpool plants manufacture primarily Class II products. In addition, 1 manufactures primarily butter, 1 manufactures primarily powder, 27 manufacture primarily cheese, and 2 manufacture primarily other products.

There are also two manufacturing plants in the currently-unregulated area of Ohio—a nonpool plant that manufactures primarily Class II products in the unregulated county of Erie, Ohio and a nonpool plant that manufactures primarily cheese in the unregulated area of Sandusky, Ohio.

Cooperative Associations

In December 1995, 18 cooperative associations pooled member milk under the 5 orders proposed to be consolidated. One of the cooperatives pooled milk on the four principal orders, 4 cooperatives had member milk pooled on 3 of the orders, 2 cooperatives pooled milk on 2 of the orders, and 11 of the cooperatives pooled milk on only one of the orders. The percentage of cooperative member milk pooled on each of the orders varied from 43 percent under Order 36 to 86 percent under Order 40. Of the total milk pooled on the 5 orders in December 1995, 78 percent was marketed by cooperative associations.

Criteria for Consolidation

Overlapping route disposition, overlapping production areas, natural boundaries, and multiple component pricing are all criteria that support the consolidation of these current order areas into a consolidated Mideast marketing area. Handlers who would be fully regulated under the consolidated order distribute approximately 90 percent of their route dispositions within the proposed marketing area, and nearly 95 percent of the milk distributed within the marketing area is from handlers who would be regulated under the order.

Many of the counties from which milk was pooled on the individual orders supplied milk to three or four of those orders. For instance, milk from several of the same Michigan counties was pooled on the Ohio Valley, Eastern Ohio-Western Pennsylvania, Indiana and Southern Michigan orders; milk from a number of the same Indiana counties was pooled on the Ohio Valley, Southern Michigan and Indiana counties; and milk from some of the same Ohio counties was pooled on the Ohio Valley, Indiana, and Southern Michigan orders.

The Great Lakes serve as natural boundaries on the northern edge of the area and on the eastern and western sides of Michigan, as do the mountains in central Pennsylvania. All of the orders involved in the proposed consolidated Mideast area contain multiple component pricing provisions. Although the Southern Michigan component pricing plan is not the same as the plan common to the Indiana and the two Ohio orders, interest in adopting the Southern Michigan component pricing plan has been expressed by industry participants in the other orders.

Discussion of Comments and Alternatives

Comments regarding the Mideast region have been received from cooperatives, proprietary handlers, and individual producers throughout the developmental period of this rulemaking process, but responses to the Revised Preliminary Report on Order Consolidation focused mostly on the suggested addition of currently non-Federally regulated territory. Several comments supported the addition of Pennsylvania Milk Marketing Board (PMMB) Area 6 to the suggested Mideast order area, and one handler urged the addition of currently-unregulated areas of Maryland and West Virginia. However, a large number of producers whose milk currently is pooled at PMMB-regulated fluid milk plants, and the operators of some of those plants, argued strenuously that including PMMB Area 6 in the proposed Mideast

order would reduce returns to Pennsylvania producers unnecessarily without reducing costs to handlers.

For the reasons discussed previously in reference to the Northeast market, PMMB Area 6 should not be added to the proposed Mideast order area. Consolidation of the existing orders does not necessitate expansion of the consolidated orders into areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states' Class I prices exceed those that would be established under Federal milk order regulation. Handlers located in PMMB areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order's pooling standards. If such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations. As State-regulated handlers, they must pay a Class I price for milk used in fluid products, often higher than the Federal order price would be. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area would have little effect on handlers' costs of Class I milk (or might reduce them), while reducing producer returns. In view of these situations, it appears that stable and orderly marketing conditions can be maintained without extending full Federal regulation to State-regulated handlers.

Comments from a large cooperative association and a fluid handler urged that southern Ohio and part of West Virginia be included in the proposed Appalachian order to assure that a large distributing plant located in Winchester, Kentucky, remains pooled under the consolidated Appalachian order. Both comments argued that order provisions should specify that plants be regulated according to their location rather than their fluid milk distribution area. The pooling provisions proposed herein would assure that plants are regulated where located unless their route disposition within another marketing area is over 50 percent. This provision should assure that the plant in question remains regulated under the proposed Appalachian order. If a plant's route disposition in a marketing area other than where it is located is over 50 percent, other handlers competing for sales with that handler should be assured that their competitor is paying a like amount for its milk.

Upper Midwest

The proposed Upper Midwest marketing area is comprised of the current Upper Midwest (Order 68) and Chicago Regional (Order 30) marketing areas, with the addition of the western portion of the Michigan Upper Peninsula (Order 44) marketing area. There are 205 counties in this proposed area.

Geography

The proposed consolidated Upper Midwest marketing area is described geographically as follows: 16 counties in Illinois (all currently in Order 30), 6 counties in Iowa (all currently in Order 68), 6 counties in Michigan (all currently in Zones I and IA of Order 44), 83 counties in Minnesota (all currently in Order 68), 16 counties in North Dakota (all currently in Order 68), 8 counties in South Dakota (all currently in Order 68), and 70 counties in Wisconsin (43 currently in Order 30, 20 currently in Order 68, and 7 currently unregulated). This market is about 600 miles east to west and about the same distance north to south.

The area described above is contiguous to the proposed Central market to the south, a small corner of the proposed Mideast market to the southeast, and the eastern portion of Michigan's Upper Peninsula, also part of the proposed Mideast market, to the northeast. North of the Upper Midwest market is Lake Superior and the Canadian border, and west of the market is a large sparsely-populated and unregulated area. Most of the eastern border of the marketing area is Lake Michigan.

The proposed Upper Midwest marketing area is generally low-lying, with some local differences in elevation in Wisconsin and the upper peninsula of Michigan. Natural vegetation in the western part of the area is tall-grass prairie, with the eastern two-thirds of the northern portion being broadleaf forest, coniferous forest, and mixed broadleaf and coniferous forest. Annual precipitation averages 30–35 inches per year. Most of the area experiences summer temperatures that average about 75 degrees; the northern and western portions average winter temperatures are in the low 'teens, while the southern and more eastern portions experience average winter temperatures in the 20's. The far western part of the market predominantly grows mixed field crops, with cattle and soybeans more to the southwest. Both Minnesota and Wisconsin are included in the top five milk-producing states, and dairy is the number 1 agricultural enterprise in Wisconsin, generating over half of the State's income derived from agricultural commodities.

Population

According to July 1, 1996, population estimates, the total population of the proposed Upper Midwest marketing area is approximately 18.5 million. Using Metropolitan Statistical Areas (MSAs), there are 3 population centers over 1 million. The Chicago-Gary-Kenosha area, primarily in northeastern Illinois, is the largest, with a 7.8 million population in the marketing area. The Minneapolis-St. Paul area, located mostly in Minnesota, is next with 2.8 million; and the third-largest MSA is Milwaukee-Racine, Wisconsin, with a population of 1.6 million. The Chicago area is located in the southeast corner of the marketing area, on the west side of the southern end of Lake Michigan, with Milwaukee approximately 85 miles north, also along Lake Michigan. Minneapolis is located 400 miles northwest of Chicago, along the Minnesota-Wisconsin border.

Approximately two-thirds of the population of the proposed marketing area is within the three largest MSA's, with over 80 percent of the population contained within the area's 17 MSA's (with the 14 smaller MSA's averaging 195,000 population).

Sixty percent of the population of the market is concentrated in the Illinois and southeast Wisconsin portion of the marketing area. In Wisconsin, nearly 90 percent of the population is located in the southern two-thirds of the state, and in Minnesota 85 percent of the population is in the southern half of the state.

Fluid Per Capita Consumption

Based on the population figure of 18.5 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the proposed Upper Midwest marketing area is estimated at 370 million pounds per month. Plants that would be fully regulated distributing plants under the Upper Midwest order had route disposition within the market of 321.5 million pounds in October 1995. The 3 producer handlers operating in the combined marketing areas during this month had a combined route disposition of .1 million pounds, 5 partially regulated handlers distributed 1.7 million pounds in the marketing area, and an additional .1 million pounds was distributed by unregulated handlers. Twenty handlers fully regulated under 10 other Federal orders, from New York-New Jersey to Great Basin, distributed 36.5 million pounds in the combined marketing areas during October 1995.

Milk Production

In December 1996, 2.2 billion pounds of milk were pooled in the proposed Upper Midwest market from more than 27,700 producers located in 10 states from Tennessee to Minnesota, and from South Dakota to Michigan. However, over 95 percent of the producer milk was produced within the proposed marketing area, and 93.4 percent was produced within the states of Wisconsin and Minnesota. As with population density and milk plant density, most milk production in Minnesota and Wisconsin occurs in the southern parts of these states. Over 82 percent of Wisconsin milk pooled under the combined Chicago Regional-Upper Midwest orders in December 1996 was produced in the southern two-thirds of the State, while 84 percent of the Minnesota milk pooled under the two orders was produced in the southern half of Minnesota.

Forty counties, 3 in Iowa, 12 in Minnesota, and 25 in Wisconsin supply pool milk to both the current Chicago Regional and Upper Midwest orders. The largest part of the common production area is in Wisconsin, where 25 counties supply 25 percent of the milk pooled under Order 30, and 27 percent of the milk pooled under Order 68. When data for the 40 counties is combined, 26 percent of the Chicago Regional pool and 39 percent of the Upper Midwest pool is supplied by this common production area.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 37 distributing plants would be expected to be associated with the Upper Midwest marketing area, including 29 fully regulated distributing plants (3 currently partially regulated and 26 currently pool plants), 4 partially regulated (3 currently partially regulated and 1 currently fully regulated), 1 unregulated (currently partially regulated), 2 producer-handlers, and 1 exempt plant (currently unregulated, with less than 150,000 pounds of total route disposition per month). Since October 1995, one distributing plant in Wisconsin has gone out of business.

There would be 7 distributing plants in the Chicago area (5 pool plants, 1 producer-handler, and 1 unregulated plant). The Milwaukee-Racine area would have 2 pool distributing plants. There would be 7 distributing plants in the Minneapolis-St. Paul area (6 pool plants and 1 partially regulated plant). Of the remaining 21 distributing plants, 14 are located in other MSAs as follows: 4 pool plants in Minnesota, 2 pool plants in North Dakota, 1 pool plant in Illinois, and 6 pool plants and 1 partially regulated plant in Wisconsin. Seven of the remaining distributing plants are not located in MSAs: 2 pool plants in Minnesota, 2 partially regulated plants in North Dakota, 1 producer-handler and 1 exempt plant (less than 150,000 pounds of total route distribution per month) in Wisconsin and 1 pool plant in Michigan.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Upper Midwest order, the Class I utilization percentages for the Chicago Regional and Upper Midwest were 30 and 46 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Upper Midwest order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Chicago Regional, no change ($12.62 in both cases), and Upper Midwest, a 1-cent per cwt increase (from $12.55 to $12.56). However, a substantial amount of milk was omitted from both pools for October 1995 because of unusual class price relationships. Annual Class I utilization percentages may be considered more representative for these markets. For the year 1996, the annual Class I utilization percentage for the Chicago Regional market was 20.4, with 19.6 for the Upper Midwest. The Class I use percentage for the Michigan Upper Peninsula market, which has a individual handler pool and represents a very small portion of the producer milk that would be expected to be pooled under the proposed consolidated order, was 78.3 percent. It is estimated that the Class I use percentage for the consolidated order would be in the neighborhood of 20 percent.

Other Plants

Located within the proposed consolidated Upper Midwest marketing area during May 1997 were 301 supply or manufacturing plants: 1 in South Dakota, 3 in Iowa, 28 in Illinois (12 in the Chicago area), 39 in Minnesota (over three-quarters of which are located in the southeastern quarter of the State), and 230 in Wisconsin (over 90 percent of which are scattered throughout the southern three-quarters of the state). One hundred five of the plants are pool plants, or have a ''pool side.'' Eighty-five of the 105 pool plants (1 in Iowa, 4 in Illinois, 16 in Minnesota and 64 in Wisconsin) are ''split plants;'' that is, one side of a plant is a manufacturing facility and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Most of the other pool plants are pool supply plants, located primarily in Wisconsin, that ship milk to pool distributing plants.

The 196 nonpool plants in the proposed Upper Midwest marketing area are manufacturing plants—103 manufacture primarily cheese, 16 manufacture primarily Class II products, 15 manufacture primarily butter, 23 manufacture primarily milk powders, and 39 manufacture primarily other products.

Also associated with the Upper Midwest order, but not within the marketing area, are 2 pool supply plants and 6 manufacturing plants (3 manufacturing primarily cheese, 2 making Class II products, and 1 butter plant) in North Dakota.

Cooperative Associations

In December 1995, 67 cooperative associations pooled member milk on the Chicago Regional and Upper Midwest orders, providing 83 percent of the milk pooled under the two orders. Seventy-six percent of the milk pooled under Order 30 and 93.9 percent of the milk pooled under Order 68 was supplied by cooperative associations. Eight of the cooperatives marketed milk in both orders, accounting for nearly two-thirds of the milk pooled in the Upper Midwest (and 68.8 percent of the cooperative member milk), and 42.5 percent of the milk pooled in the Chicago Regional market (55.9 percent of total cooperative member milk). In the two markets, 15 cooperatives pooled milk only under Order 30, and 44 cooperatives pooled milk only under Order 68.

Criteria for Consolidation

As suggested in the initial Preliminary Report on Order Consolidation, the Chicago Regional and Upper Midwest marketing areas should be combined, with the addition of the western end of Michigan's Upper Peninsula, into a consolidated Upper Midwest Federal order marketing area. Although these areas do not have a considerable degree of overlapping fluid milk disposition, they do have an extensive overlapping procurement area. Handlers regulated under both of the principal markets distribute milk into more southern

markets, and approximately 10 percent of the fluid milk distributed within the proposed area is distributed by handlers regulated under other orders. However, these other order areas are more closely related to markets to the south than to the proposed Upper Midwest order area. On that basis, it is more appropriate to include them in other consolidated marketing areas.

Other aspects of the proposed consolidation also fit the criteria set forth. The proposed Upper Midwest area is bounded on three sides by Lakes Michigan and Superior, the international border with Canada, and a large unregulated area. A significant portion of both markets' milk is supplied by the same cooperative associations. The markets have identical multiple component pricing plans, and both have large reserves of milk that normally is used in manufactured products, primarily cheese. Approximately 90 percent of the milk used in manufacturing in these markets is used to make cheese. The amount of cheese manufactured from milk pooled under these milk orders is enough to supply a population 3 times greater than that of the proposed consolidated marketing area. Fluid milk handlers in both markets must compete with cheese manufacturers for a milk supply, and marketing order provisions for both markets must provide for attracting an adequate supply of milk for fluid use.

Discussion of Comments and Alternatives

Comments received before issuance of the Revised Preliminary Report on Order Consolidation largely favored the consolidation of ten marketing areas—Federal orders 30, 32, 44, 49, 50, 64, 65, 68, 76, and 79. The Revised Report suggested the addition of 3 order areas (Eastern South Dakota, most of Nebraska-Western Iowa, and Iowa) to the earlier suggestion of consolidating the Chicago Regional and Upper Midwest areas. The revised configuration would have increased the population and Class I use of the consolidated Upper Midwest area. Any increase in a consolidated marketing area that would include the Chicago Regional and Upper Midwest order areas could not be justified on the basis of the criteria of overlapping sales and procurement areas beyond the addition of the three areas suggested to be added in the Revised Consolidation Report. Addition of the five orders advocated by the cementers is not supported on the basis of any data available.

After issuance of the Revised Report a number of objections were received, both to the addition of only 3 more areas, and to the inclusion of the 3 additional areas with the Upper Midwest. Producer organizations operating principally in the proposed Upper Midwest consolidated area argued that additional Class I use should be included in the area to enhance blend prices to producers. Producer organizations and handlers operating in the other 3 areas, particularly Iowa, argued that inclusion of those areas with the 2 upper midwest order areas would severely affect Iowa handlers' ability to attract a sufficient supply of milk, and that the milk pooled on those orders from Minnesota and Wisconsin is not needed to meet Iowa handlers' Class I needs, but is pooled on the Iowa market to obtain the higher blend price.

The addition to the consolidated Upper Midwest marketing area of marketing areas with higher Class I use for the sole purpose of increasing the Upper Midwest Class I utilization percentage and Upper Midwest producer returns is not consistent with the criteria examined to determine defensible order consolidations. The numerous markets recommended by upper midwest producer groups to be consolidated with the Chicago Regional and Upper Midwest order areas have very little distribution or procurement overlap with those areas, aside from occasional need for reserve milk supplies. When reserve supplies are needed by the other markets, upper midwest milk can be, and is, pooled on the more southern markets and shares in their pools. The potential gain of adding areas recommended by upper midwest producer groups would be much less than the loss to producers whose milk is pooled under orders proposed to be consolidated in the Central, Mideast and Appalachian marketing areas.

For example, if 9 nearby marketing areas were combined with the Upper Midwest and Chicago Regional areas, the combined utilization for the 11 markets would be about 10 percentage points higher than that for the 2 markets, and the blend price could be expected to increase by approximately 7 cents per hundredweight. At the same time, the percentage Class I utilization for the other markets that would be affected would be reduced by an average of 26 percentage points and by as many as 54 percentage points, resulting in an average reduction in the blend price of 27 cents, and as much as 54 cents, per hundredweight. These results occur because, with the addition of 9 other orders, the combined volume of milk pooled under the Upper Midwest and Chicago Regional markets would represent nearly three-quarters of the total that would be pooled under the 11 orders. Based on these considerations and comments received, the extent of the proposed Upper Midwest marketing area should be limited to the areas of the current Chicago Regional and Upper Midwest marketing areas, with the addition of the western part of the Michigan Upper Peninsula marketing area.

Central

The proposed Central order marketing area consolidates the current 8 Federal order marketing areas of Central Illinois, most of Southern Illinois-Eastern Missouri, most of Southwest Plains, Greater Kansas City, Iowa, Eastern South Dakota, Nebraska-Western Iowa, and Eastern Colorado (Federal orders 50, 32, 106, 64, 79, 76, 65, and 137, respectively). Moving to the proposed Southeast marketing area are 6 Missouri counties currently in Federal order 32 and, from Order 106, 11 northwest Arkansas counties and 22 whole and 1 partial (Pulaski County) southern Missouri counties. Order 106 counties in Kansas and Oklahoma would remain in the Central market, as suggested in the 2 preliminary reports. In addition, some counties in Colorado, Illinois, Iowa, Kansas, Missouri and Nebraska that currently are not part of any order area would be included in the proposed Central market. There are 565 whole counties and 3 partial counties in this proposed area.

Geography

The proposed Central marketing area would include the following territory:

Colorado—33 counties in eastern Colorado, including the 30 Colorado counties currently in the Eastern Colorado marketing area, and adding 3 currently-unregulated counties in the southeast corner of the state between the Eastern Colorado and Southwest Plains marketing areas.

Illinois—88 counties, including the 6 counties (4 entire and 2 partial) currently in the Iowa marketing area, the 19 counties currently in the Central Illinois marketing area, the 49 counties currently in the Southern Illinois-Eastern Missouri marketing area and 8 currently-unregulated adjacent counties in southern Illinois, and 6 currently-unregulated counties in western Illinois located between the current Central Illinois and Southern Illinois-Eastern Missouri order areas and the Mississippi River.

Iowa—93 counties and the City of Osage in Mitchell County; including the 68 counties and the City of Osage currently in the Iowa marketing area, the 17 counties currently in the

Nebraska-Western Iowa marketing area, the 1 county currently in the Eastern South Dakota marketing area, 6 currently unregulated counties in the northwestern part of Iowa, and 1 currently unregulated county in the southeastern corner of Iowa.

Kansas—the entire State (105 counties).

Minnesota—the 4 southwestern Minnesota counties that currently are in the Eastern South Dakota marketing area.

Missouri—45 counties and 1 city, including 6 counties and 1 city that currently are in the Southern Illinois-Eastern Missouri marketing area, the 20 counties that currently are in the Greater Kansas City marketing area, the 5 counties that currently are in the Iowa marketing area; and 14 currently-unregulated counties distributed around the center area proposed to remain unregulated.

Nebraska—66 counties in the southern and eastern parts of Nebraska; omitting the 11 counties in the panhandle that currently are part of the Nebraska-Western Iowa marketing area, and adding 5 currently-unregulated counties in the southwest corner of the State between the Nebraska-Western Iowa and Eastern Colorado marketing areas and 3 currently-unregulated counties in the southeast corner of the State between the Nebraska-Western Iowa and Greater Kansas City marketing areas.

Oklahoma—the entire State (77 counties).

South Dakota—the 26 eastern South Dakota counties (including the portion of Union County that currently is in the Nebraska-Western Iowa marketing area) that currently are in the Eastern South Dakota marketing area.

Wisconsin—the 2 southwest Wisconsin counties that currently are in the Iowa marketing area.

The proposed Central marketing area is adjacent to the proposed Upper Midwest consolidated order area on the north and northeast, the proposed Mideast and Appalachian areas on the east, and the northwest corner of the Southeast order area and the proposed Southwest area on the south. The Rocky Mountains and some unregulated area form a natural barrier on the west between this proposed marketing area and the proposed Western area. The area north of approximately the western third of the proposed Central area also is unregulated. The north-south distance covered by the area is approximately 800 miles, from Watertown, South Dakota, to Ardmore, Oklahoma. The east-west extent of the area, from the Indiana-Illinois border to Denver, Colorado, is approximately 1,000 miles.

Geographically, the Central marketing area includes a wide range of topography and climate types, ranging from the foothills of the Rocky Mountains on the west to the central section of the Mississippi River Valley toward the eastern part of the area. Precipitation ranges from less than 15 inches per year in Denver, Colorado, to more than 30 inches at St. Louis, Missouri. Most of the area experiences fairly hot summer temperatures, while winter temperatures vary somewhat more than summer, with colder winter temperatures occurring in the northern part of the Central area. Much of the nation's cornbelt is included within the Central area, with significant wheat-growing areas in western Kansas. The natural vegetation ranges from short grass prairie in eastern Colorado through tall grass prairie in eastern South Dakota, Nebraska, Kansas and Oklahoma, and much of Illinois; to broadleaf forest on both sides of the Mississippi River.

Population

According to July 1, 1996, population estimates, the total population in the proposed Central marketing area is approximately 21 million. Using Metropolitan Statistical Areas (MSAs), there are four population centers over 1 million. The St. Louis, Missouri/Illinois, area is the largest, with over 2.5 million population, and the Denver-Boulder-Greeley, Colorado, area is next with approximately 2.3 million. Kansas City, Missouri/Kansas, has a population of 1.7 million, and Oklahoma City, Oklahoma, is just over 1 million. Approximately one-third of the population of the proposed marketing area is within these four largest MSAs, with nearly two-thirds of the population contained within the area's 31 MSA's (with the 27 smaller MSAs averaging 230,786 population). The Colorado portion of the proposed marketing area has 93.6 percent of its population concentrated in 4 MSA's. The Missouri portion has 89 percent.

Fluid Per Capita Consumption

Based on the population figure of 21 million and a per capita fluid milk consumption rate of 19 pounds of fluid milk per month (a weighted average based on state populations in the marketing area and fluid per capita consumption estimates for each state), total fluid milk consumption in the proposed Central marketing area would be approximately 400 million pounds per month, including 11.7 million pounds associated with the net population gain of the marketing area from the addition of previously-unregulated territory. Plants that would be fully regulated distributing plants in the Central order, including 3 plants operated by one handler that currently are fully regulated under the Southwest Plains order (Order 106) but are expected to be regulated under the proposed Southeast market pool, had route disposition within the eight marketing areas included in the consolidated Central area of 384.2 million in October 1995. It is likely that most of the milk distributed within formerly unregulated areas by Central order handlers would be distributed within the consolidated Central marketing area. The 10 producer-handlers operating in the Central market during October 1995 had a combined route disposition of 2.2 million pounds, partially regulated plants and plants that would be exempt distributed 3 million pounds in the marketing area, and other order plants distributed 22.2 million pounds during October 1995.

Milk Production

In December 1996, 1.1 billion pounds of milk were pooled under the orders consolidated in the proposed Central market (including all of the milk pooled under Orders 32 and 106) from more than 10,000 producers located in 21 states from Idaho to Tennessee, and from Texas to Minnesota. Seventy-four percent of the producer milk was produced within the proposed marketing area. The states contributing the most producer milk were, in descending order of volume, Iowa, Missouri, Colorado, Kansas, Oklahoma and Illinois. However, over 80 percent of the Missouri producer milk came from farms in counties which are included in the proposed consolidated Southeast marketing area. These 6 States accounted for 71 percent of the producer milk pooled under the eight current orders proposed to be consolidated. All of the states having substantial portions of their areas in the proposed Central market contribute producer milk to at least two of the current eight individual orders, with four of the states (Iowa, Kansas, Missouri, and Nebraska) supplying milk to five of the order areas each.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 54 distributing plants would be expected to be associated with the Central marketing

area, including 34 fully regulated distributing plants (one currently unregulated and the remainder currently pool plants), 2 partially regulated (1 currently partially regulated and 1 currently unregulated), 2 exempt plants (both currently are pool plants but have less than 150,000 pounds of total route disposition per month), 11 producer-handlers (all currently producer-handlers), 1 unregulated (located in the unregulated central portion of Missouri), and 4 government agency plants (all currently government agency plants). Since October 1995, it is known that 4 distributing plants (all of which were fully regulated—2 in Illinois, 1 in Iowa, and 1 in Oklahoma) have gone out of business.

There would be 10 distributing plants in the Denver area (7 pool plants and 3 partially regulated plants). The Kansas City area would have 1 pool distributing plant. The St. Louis area would have 5 distributing plants (4 pool plants and 1 exempt plant). There would be 1 pool distributing plant and 1 partially regulated plant in the Oklahoma City area. Of the remaining 36 distributing plants, 16 are located in other MSAs as follows: 1 pool plant and 1 producer-handler in Colorado; 2 pool plants in Illinois; 4 pool plants, 1 producer-handler and 1 exempt plant in Iowa; 1 pool plant in Kansas; 3 pool plants in Nebraska; 1 producer-handler in Oklahoma; and 1 pool plant in South Dakota.

Twenty of the remaining distributing plants are not located in MSAs. They are: 1 government agency plant in Colorado; 4 pool plants and 1 government agency plant in Illinois; 1 pool plant and 1 producer-handler in Iowa; 1 pool plant and 1 government agency plant in Kansas; 1 unregulated and 2 producer-handlers in Missouri; 1 producer-handler in Nebraska; 2 pool plants in Oklahoma; 1 partially regulated and 1 government agency plant in South Dakota; and 1 pool and 1 partially regulated plant in Wyoming.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Central order, the Class I utilization percentages for the individual markets ranged from 42 percent for the Nebraska-Western Iowa market to 73 percent for the Central Illinois, Greater Kansas City and Eastern South Dakota markets combined. Data for these three markets are combined because each of them has only one handler, and individual handler information cannot be released. Combined utilization for the eight markets would result in a Class I percentage of just over 50 percent (including the utilization of the 3 plants that would be included in the Southeast marketing area).

Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Central order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Southern Illinois-Eastern Missouri, a 12-cent per cwt decrease (from $13.00 to $12.88); Central Illinois, a 21-cent per cwt decrease (from $13.03 to $12.72); Greater Kansas City, a 34-cent per cwt decrease (from $13.22 to $12.88); Nebraska-Western Iowa, a 16-cent increase (from $12.63 to $12.79); Eastern South Dakota, a 14-cent decrease (from $12.81 to $12.67); Iowa, a 1-cent decrease (from $12.71 to $12.70); and Southwest Plains, a 21-cent increase (from $13.08 to $13.29). The weighted average use value for the consolidated Central order market is estimated to be $12.95 per cwt.

Other Plants

Also located within the Central marketing area during May 1997 were 83 supply or manufacturing plants: 7 in Colorado (4 in the Denver area), 15 in Illinois (2 in the Decatur area), 23 in Iowa (2 in the Des Moines area and 1 in the Dubuque area), 6 in Kansas, 7 in Missouri (5 in the St. Louis area), 7 in Nebraska, 7 in South Dakota (1 in the Sioux Falls area), 4 in Oklahoma (1 in the Tulsa area), and 7 in Wisconsin. Twenty-two of the 83 plants are pool plants, or have a ''pool side.'' Twelve of the 22 pool plants (6 in Iowa, 1 in Nebraska, 2 in South Dakota, and 3 in Wisconsin) are ''split plants;'' that is, one side of a plant is a manufacturing facility, and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Of the pool plants, 8 have no primary product, but are only shipping to distributing plants, and 6 are pooled manufacturing plants.

Of the 61 nonpool plants in the proposed Central marketing area, 58 are manufacturing plants—23 are plants that manufacture primarily Class II products, 3 manufacture primarily butter, 6 manufacture primarily powder, 25 manufacture primarily cheese, and 1 manufactures primarily other products.

Also associated with the proposed Central order, but not within the proposed marketing area, are 2 nonpool cheese plants and a nonpool supply plant located in South Dakota.

Cooperative Associations

Twenty-six cooperative associations pooled milk in December 1995 under the eight orders proposed to be consolidated in the proposed Central market. Of these cooperatives, 1 pooled milk under 6 of the orders, 1 under 5 orders, 3 cooperatives associated producer milk with 3 orders each, and 3 others pooled milk under 2 orders each. Eighteen of the 26 cooperatives pooled milk under only one order, and for 11 of these organizations that was the Iowa order.

The percentage of cooperative milk pooled under the eight orders was 93.6, with a range of 80.6 percent cooperative milk under the Southwest Plains order to 100 percent cooperative member milk under the Central Illinois, Greater Kansas City and Eastern South Dakota orders.

Criteria for Consolidation

Most of the criteria used in determining the optimum consolidation of order areas apply to the proposed Central marketing area. The Federal order markets proposed to be consolidated in the Central area are strongly related to each other through overlapping route disposition. The great majority of sales by handlers who would be regulated under the proposed Central order are distributed within the proposed marketing area, and the markets proposed to be consolidated have a greater relationship in terms of overlapping sales areas than with any other markets. In addition, sales within the currently-unregulated areas proposed to be included in the consolidated Central area are overwhelmingly from handlers that would be pooled under the proposed Central order. Inclusion of these areas would reduce handlers' burden of reporting out-of-area sales and take in pockets of currently-unregulated counties that occur between the current order areas. As discussed above, the milk procurement areas for the markets proposed to be combined also have a significant degree of overlap.

Some of the currently-unregulated counties in western Illinois and central Missouri have been added to the proposed Central marketing area. The omission from the proposed marketing area of the counties in central Missouri that are not included in the proposed Central marketing area are based on an estimation of the marketing area of Central Dairy, located in Jefferson City, Missouri. There is no intention of causing the regulation of this handler, but minimizing the extent of the unregulated counties in the middle of

the proposed marketing area would help to reduce the reporting burden on handlers in determining which route dispositions are inside, and which are outside the marketing area. The administrative burden of verifying such reporting also would be eliminated.

Three of the current Federal order markets (Central Illinois, Greater Kansas City, and Eastern South Dakota) included in this proposed consolidated area have too few pool plants to be able to publish market data without revealing confidential information. In addition to these three markets, the number of handlers regulated under each of the Nebraska-Western Iowa, Iowa and Eastern Colorado orders is in the single digits. Consolidation of these markets will enable the market administrator's office to provide more informative market data.

Discussion of Comments and Alternatives

Although the Preliminary Report on Order Consolidation, issued in December 1996, suggested a Central marketing area that resembles the area proposed herein (but included the northwest Arkansas and southern Missouri counties that now are included in the proposed Southeast area), the Revised Preliminary Report, issued in May 1997, suggested that the Iowa, Nebraska-Western Iowa and Eastern South Dakota order areas would more appropriately be included with the Chicago Regional and Upper Midwest areas in a consolidated Upper Midwest order. A number of comments received after issuance of the Revised Report on Order Consolidation argued that the Iowa and the Nebraska-Western Iowa orders should, more logically, be consolidated with the Greater Kansas City marketing area, as in the November 1996 report.

Among others, the Upper Midwest Dairy Coalition, Mid-America Dairymen, Andersen-Erickson Dairy Company, and Swiss Valley Farms filed comments stating that the revised marketing areas would harm Iowa fluid milk processors competing for sales in Kansas City and St. Louis. The Iowa Dairy Foods Association and the Iowa Dairy Producers Association, representing all Iowa dairy processors, emphasized that Iowa must be included within the same order area as the Greater Kansas City, Central Illinois and Southern Illinois-Eastern Missouri areas because Iowa fluid processors would be financially disadvantaged due to the substantial competition within these areas for packaged route disposition and raw milk supply. Mid-America Dairymen suggested that the only portion of the Iowa area that might justifiably be added to the proposed Upper Midwest consolidated order area would be the northeastern portion of Iowa, containing Dubuque.

Comments from the National Farmers' Organization, Inc., supported the approach taken in the May 1997 Revised Report on Order Consolidation under which the consolidation of Iowa with the Upper Midwest was suggested. The comments stated that a large, integrated contiguous milkshed area in southwestern Wisconsin, northeast Iowa, and southeast Minnesota serves as a source of seasonal or year-round fluid supplies for several marketing areas, including Iowa. Lakeshore Federated Dairy Cooperative comments insisted that the revised area be expanded to include even more area to enhance the utilization percentage of the Upper Midwest order.

One commenter pointed out that the suggested consolidation was not supported by the criteria of overlapping sources of milk because the degree of competition for milk supplies cannot be judged properly on the basis of the source of milk pooled from an area. According to the comment, a significant portion of the Minnesota and Wisconsin milk pooled on the Iowa order is pooled on the basis of where it will return the most revenue to the supplying producers rather than whether the milk supply is needed in the market on which it is pooled. The same commenter, citing the difficulty Iowa handlers often have experienced in obtaining an adequate supply of milk, went on to state that the competition for supplies of producer milk between the Iowa and Central Illinois markets necessitates that these two markets be included in the same consolidated order.

Because of the strong objections in the comments that opposed the addition of the Iowa, Nebraska-Western Iowa and Eastern South Dakota order areas to the consolidated Upper Midwest marketing area and the slight preponderance of data upon which the suggestions of the initial Preliminary Report were changed to those of the Revised Preliminary Report, an even closer look was taken at destinations of route dispositions and sources of producer milk receipts, using data for individual handlers instead of for the market as a whole. As with a number of other proposed consolidated order areas, it would be impossible to find a boundary across which significant quantities of milk are not procured for other marketing areas. As in some other cases, analysis was done to determine where the minimal amount of route disposition overlap between areas occurred, with the criterion of overlapping route disposition given greater weight than overlapping areas of milk supply.

For the most part, it was found that the principal relationship in terms of route disposition between Iowa handlers and the proposed consolidated Upper Midwest market is represented by one Iowa handler. That handler's sales in order areas that are proposed to comprise the Upper Midwest consolidated order marketing area represent a large majority of sales by Iowa handlers in marketing areas outside the proposed Central marketing area. This handler has many of its sales in the Chicago Regional marketing area. In fact, if the eastern edge of the Iowa marketing area were added to the proposed consolidated Upper Midwest order, this handler not only would have the majority of its sales and qualify regularly as a pool distributing plant under the consolidated Upper Midwest order (as it occasionally does now under the current Chicago Regional order on the basis of its sales in that area), but total inter-order sales between the two consolidated marketing areas would be reduced. This proposed rule does not include the division of the Iowa order, but comments on the desirability of such a division would be welcomed.

The other order area that demonstrates the strongest relationship with the proposed consolidated Upper Midwest order is the Eastern South Dakota area. Nearly one-fifth of the Eastern South Dakota handler's sales are distributed in the current Upper Midwest order, while a nearly equal amount is distributed in unregulated areas. However, route disposition in the Eastern South Dakota order area by the Eastern South Dakota handler and other handlers that would be regulated under the proposed Central order represents the total fluid milk disposition that would be estimated for the total population of the Eastern South Dakota marketing area, using an estimate of 265 pounds of fluid milk consumption per capita. Therefore, it would not be expected that Upper Midwest handlers would have significant amounts of fluid milk distributed into the Eastern South Dakota area.

Approximately 85 percent of the total fluid milk dispositions distributed by handlers regulated under the three order areas that were suggested to be included in the Central area in the initial Preliminary Report, and in the Upper Midwest area in the Revised Preliminary Report, are disposed of in the proposed Central market. The disposition by other Central marketing area handlers within the proposed

Central area is somewhat greater than the proportion for the three more northern order areas.

The milk receipts at Iowa pool plants from sources in Minnesota and Wisconsin vary greatly from month to month, leaving a strong impression that these areas are not regular or reliable sources of milk for the Iowa market. As stated in the description of consolidation criteria, not all areas having overlapping areas of milk procurement should be consolidated. The volumes of Minnesota and Wisconsin milk pooled on the Iowa order represent a significant share of the total milk pooled there. In the first 9 months of 1997, 6 percent of the milk pooled on the Iowa order was from Minnesota, and 22 percent was from Wisconsin. However, the variation in the volume of Minnesota milk pooled was three times that of Iowa milk pooled, and the variation in the volume of Wisconsin milk was five times greater than that of Iowa milk. Less than five percent of either State's total pooled production is pooled under the Iowa order.

A number of commenters suggested that southern Missouri and/or northwest Arkansas should be included in the Southeast Marketing Order. Mid-America Dairymen, Inc.; Associated Milk Producers, Inc.; Carolina-Virginia Milk Producers Association, and several other producer groups supported removing both areas from the current Southwest Plains order area and making them a part of the Southeast Federal order. The commenters stated that the reason for such a change would be to correct inequities they claim are caused by southwest Missouri manufacturing plants balancing the Southeast without being able to pool, and inefficient milk movements caused by blend price discrepancies between orders. Several commenters added that southern Missouri historically has been a source of reserve milk supply for the Southeast. This recommended change, of territory currently in the Southwest Plains marketing area to the proposed Southeast marketing area instead of the proposed Central marketing area, has been adopted in the proposed rule and is discussed further under the description of the Southeast marketing area.

Several comments supported the position of Gillette Dairy, Rapid City, South Dakota, that 14 counties in Nebraska proposed to be included in the proposed Central order area be excluded. Five of these counties are currently unregulated, while the other nine are in the present Nebraska-Western Iowa Federal order. The comments contended that excluding Nebraska counties in which Gillette is the majority distributor of fluid milk would follow the Department's intent not to regulate currently unregulated handlers. These 14 counties would be in addition to the 11 western Nebraska counties of the current Nebraska-Western Iowa order area that the two preliminary reports had suggested be omitted from the Central order. The 14 counties are located between the current Nebraska-Western Iowa and Eastern Colorado marketing areas, which are proposed to be consolidated as part of the proposed Central market. Handlers regulated under both of those orders have sales in the counties in question, and there is no data reliably indicating that Gillette Dairy distributes milk there, or in what amounts relative to regulated handlers. Therefore, these counties continue to be included in the proposed Central marketing area.

After considering all the comments and other relevant information, it was determined that the territory encompassed in the proposed Central marketing area best meets the criteria used.

Southwest

The proposed Southwest marketing area is comprised of the current Texas (Order 126) and New Mexico-West Texas (Order 138) marketing areas as well as 49 currently unregulated Texas counties. There are 290 counties in this proposed area.

Geography

The proposed Southwest market is described geographically as follows: three counties in Colorado (currently in Order 138), all New Mexico counties (33, currently in Order 138) and all 254 Texas counties (162 currently in Order 126, 43 currently in Order 138, and 49 currently unregulated). Two currently unregulated counties are located in northeast Texas, while the remaining 47 are in southwest Texas.

The Southwest market spans the south central area of the United States. It is surrounded by Arizona on the west, Colorado and Oklahoma on the north, Arkansas, Louisiana and the Gulf of Mexico in the northeast, east, and southeast, and Mexico to the south. Measuring the extreme dimensions, this market extends about 800 miles north to south from southern to northern Texas and about 875 miles east to west from Texas' border with Louisiana and Arkansas to New Mexico's border with Arizona.

The Southwest market is contiguous to 3 proposed consolidated marketing areas: Arizona-Las Vegas to the west, Central to the north and Southeast to the east. Unregulated counties in Colorado also form a relatively small border in the northwest corner of the market. Texas has over 350 miles of coastline on the Gulf of Mexico, while Texas and New Mexico share about 970 miles of boundary with northern Mexico.

In terms of physical geography, diverse topographic relief exists in the Southwest market area, particularly in New Mexico (ranging from deserts to high mountain ranges). Northwest New Mexico is part of the Colorado Plateau, an area of broad valleys and plains as well as deep canyons and mesas. The Rocky Mountains extend into the north central area of the state. The Basin and Range region, generally characterized by ranges or isolated mountains interspersed with valleys, desert basins or high plains, is located in central and southwestern New Mexico, as well as western Texas. The Great Plains cover the eastern third of New Mexico and extend through the Texas Panhandle in north Texas and much of central Texas. This area is characteristically dry and treeless and also encompasses Texas hill country and the Edwards Plateau. The Osage Plains covers area in Texas from the Oklahoma-Texas border into the south central part of the state and the low and flat West Gulf Coastal Plain covers the eastern two-fifths of the state.

Climates in this region also vary. The western part of the region, including New Mexico, southwest Texas and the Texas Panhandle, is semi-arid to arid with wide ranges in both daily and annual temperatures. The southern tip of Texas and the Gulf coast are more humid and subtropical. For some of the area there are few agricultural uses other than dairy farming. Dairy products were the 2nd and 3rd highest revenue-producing agricultural commodities in New Mexico and Texas, respectively, in 1996, accounting for nearly one-third of agricultural receipts in New Mexico, but less than 10 percent in Texas.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 20.9 million. The 26 Metropolitan Statistical Areas (MSAs) in the proposed Southwest market account for about 82 percent of the total market area population. About 54 percent of the Southwest population is located in the 4 most populous MSAs. Six MSAs have populations greater than 500,000; their total population is about 61 percent of the Southwest population. Because of the large number of MSAs in the Southwest market, only those areas with populations greater than 500,000 are described in detail.

Almost 92 percent of the Southwest market's population is located in Texas, which has 19.1 million people. 23 of the 26 Southwest market MSAs are in Texas. About 63 percent of Texas' population is concentrated in 5 areas, which are also the Southwest area's top 5 population centers: the Dallas-Fort Worth (Dallas) MSA in northeastern Texas, with a population of 4.6 million; the Houston-Galveston-Brazoria (Houston) MSA in southeastern Texas near the Gulf of Mexico, with a population of 4.3 million; the San Antonio MSA in south central Texas, with a population of 1.5 million; the Austin-San Marcos (Austin) MSA in central Texas, with a population of 1 million; and the El Paso MSA located in the far western corner of Texas on the Texas-New Mexico-Mexico border, with a population of 680,000.

New Mexico's population is about 1.7 million. The remaining 3 of the 26 Southwest market MSAs are located in New Mexico. About 39 percent of the state's population is located in the Albuquerque area, just northwest of central New Mexico.

In the remainder of the Southwest marketing area, the 3 Colorado counties have a population of about 70,000.

Fluid Per Capita Consumption

Estimates of fluid per capita consumption vary from 17.1 pounds of fluid milk per month per person in Texas to 17.5 in New Mexico to 18.8 in Colorado. Multiplying the individual states' consumption rate by its population in the proposed marketing area results in a fluid milk consumption rate of 358 million pounds of fluid milk per month for the proposed Southwest marketing area. With Southwest handlers' (fully regulated and producer-handlers) route distribution of 322 million pounds within the Southwest marketing area, route distribution from these handlers is 36 million pounds less than the expected consumption. Even with the addition of 23 million pounds from other Federal order handlers, the Southwest market area had 13 million pounds less than the expected consumption rate during October 1995.

Production

In December 1996, 1,838 producers from 180 counties in 8 states pooled 746 million pounds of producer milk on Orders 126 and 138. Nearly 99 percent of this producer milk came from counties proposed to be included in the proposed Southwest marketing area. About 55 percent of the combined market's producer milk was provided by producers in six counties.

About 455 million pounds of milk were pooled on either Order 126 or 138 from 1,566 producers in 131 Texas counties in December 1996. Three Texas counties were among the top 6 in volume pooled: Erath (1st), Hopkins (4th) and Comanche (6th). Erath County—located about 75 miles west of Dallas—pooled 111 million pounds on Order 126 (and an additional 10 million pounds on 3 other Federal orders). Hopkins County—located about 50 miles east of Dallas—pooled 52 million pounds on Order 126 and another 12 million pounds on 2 other Federal orders. Contiguous to and lying southwest of Erath County, Comanche County pooled 34 million pounds on Order 126 and about 3 million pounds on 2 other Federal orders.

Of the 283 million pounds of milk pooled on either Order 126 or 138 from 179 producers in 16 New Mexico counties, 75 percent was produced in the following three counties, all among the top 6 in volume pooled: Chaves (2nd), Dona Ana (3rd) and Roosevelt (5th). Chaves County—located about 200 miles southeast of Albuquerque—pooled 107 million pounds on Orders 126 and 138 in December 1996 and an additional 6 million pounds on 3 other Federal orders. Dona Ana County, located over 200 miles south of Albuquerque, contiguous to El Paso County, TX, and the U.S.-Mexico border, pooled 64 million pounds of producer milk on Order 138. Contiguous to and lying northeast of Chaves County, Roosevelt County pooled 39 million pounds on Orders 126 and 138 and another 3 million on another Federal order.

In December 1996, producer milk for Orders 126 and 138 also originated in one of the Colorado counties in the Southwest marketing area, and in counties in Arkansas, Louisiana, Mississippi, Missouri and Oklahoma. However, the combined amount of producer milk pooled from these areas is less than 2 percent of the total producer milk pooled in these Orders.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures and openings through May 1997, 33 distributing plants located in the proposed Southwest marketing area would be expected to be associated with the Southwest market, including 23 fully regulated distributing plants, 1 partially regulated, 3 exempt and 6 producer-handlers. With one exception, none of these plants' regulatory status is expected to change as a result of the consolidation process. Of the 23 fully regulated plants, 17 are located in the top six MSA regions.

Since October 1995, it is known that 5 plants (4 fully regulated and 1 producer-handler) have gone out of business. The four fully regulated plants were located in Corpus Christi, Lubbock and Lufkin (all in Texas), and in Clovis, New Mexico. The producer-handler was located in Decatur, Texas. One fully regulated distributing plant, Promised Land Dairy in Floresville, Texas, began packaging and distributing products in March 1996. Because market analysis for this area is based on October 1995 information, Promised Land Dairy information is not included in route dispositions reported; however, the route dispositions for the non-operational plants are included.

Of the 33 distributing plants that would be located in the proposed Southwest marketing area, 24 are in Texas, and 9 are in New Mexico. Twenty-one of the Texas plants would be fully regulated. They are as follows: 6 in the Dallas area, 3 in the Houston area, 2 in the San Antonio area, 1 in the Austin area, and 3 in the El Paso area, and 6 located throughout the state. One of the Texas distributing plants was associated with Order 30 (Chicago Regional) in October 1995, and is expected to be partially regulated in the Southwest market. Two producer-handlers are located in Texas, one in the El Paso area and the other in the central part of the state.

Over half of New Mexico's 9 distributing plants are located in the Albuquerque area. Two fully regulated handlers, 1 exempt plant and 2 producer-handlers are located in this population center. Of the remaining 4 plants located in New Mexico, there are 2 exempt plants (both located in southeastern New Mexico) and 2 producer-handlers (one located southeast and the other northeast of Albuquerque).

In October 1995, the fully regulated plants in Orders 126 and 138 had route distribution totaling 320 million pounds. Almost 98 percent, or 313 million pounds, was distributed within the proposed Southwest marketing area. The nonpool handlers (i.e. producer-handlers) in the Southwest area are larger than in most other marketing areas; these handlers had about 9 million pounds of route distribution in the Southwest marketing area for October 1995. Additionally, handlers fully regulated under other Federal orders had about 23 million pounds of route distribution into the Southwest market area.

Utilization

According to October 1995 pool statistics for handlers who would be fully regulated under this Southwest order, the Class I utilization percentages for the Texas and New Mexico-West Texas markets were 50 and 42 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Southwest order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Texas, a 3-cent per cwt decrease (from $13.49 to $13.46), and New Mexico-West Texas, a 7-cent per cwt increase (from $13.00 to $13.07). The weighted average use value for the consolidated Southwest order market is estimated to be $13.39 per cwt. For December 1996, combined Class I utilization for Orders 126 and 138 was 42.7 percent based on 318,664,000 pounds of producer milk used in Class I out of 745,890,000 total producer milk pounds.

Other Plants

Also located within the Southwest marketing area during May 1997 are 17 manufacturing plants: 11 in Texas (2 in the Dallas MSA and 1 in the El Paso MSA) and six in New Mexico. Six of the 17 plants are pool plants. All of these pool plants are manufacturing plants—one manufactures primarily Class II products, two manufacture primarily powder, two manufacture primarily cheese and one manufactures primarily other products. Of the 11 nonpool plants in the Southwest marketing area, all are manufacturing plants—one manufactures primarily powder, four manufacture primarily cheese, one manufactures primarily other products and five manufacture primarily Class II products.

Cooperative Associations

In December 1995, three cooperative associations marketed nearly 99 percent of the milk pooled under the two orders proposed to be consolidated in the Southwest area: Associated Milk Producers, Inc., Southern Region (AMPI); Mid-America Dairymen, Inc. (Mid-Am); and Select Milk Producers, Inc. (Select). AMPI and Mid-Am members marketed milk in both Orders 126 and 138, while Select producers were affiliated only with Order 126. Although all three cooperatives marketed milk in other Federal orders as well during this particular month, Select producers' milk was affiliated with fewer Federal orders than Mid-Am's and AMPI's.

Criteria for Consolidation

Nearly all of the route disposition by Order 126 and 138 handlers is distributed within these two current marketing areas, and within the currently unregulated portions of Texas proposed to be added. In addition, nearly all of the milk production for the proposed consolidated area originates within the marketing area. Two cooperatives market the vast majority of cooperative milk within the proposed area.

Discussion of Comments and Alternatives

A number of comments from east Texas suggested combining that portion of Texas with the Southeast marketing area to resolve inequities identified by the commenters. The commenters claimed that due to its heat, humidity and rainfall, milk production conditions in eastern Texas have more in common with the Southeast than with the Southwest area. According to the comments, the dry climate of Central Texas and New Mexico permits dairies to become much larger and produce 10–15% more milk per cow at a lower cost than East Texas producers are able to achieve.

Alternatives listed by the commenters include developing pricing mechanisms within the proposed consolidated Southwest order that would compensate East Texas producers at a price midway between those of the Southeast and the Southwest markets, or using Atlanta, Georgia, as a price basing point with a zone differential that would decrease the price of milk, based on transportation costs, from Atlanta to Roswell,New Mexico.

There is very little overlap of either fluid milk product disposition or producer milk movements between the Texas and Southeast marketing areas. The amount of route disposition overlap that exists is, not surprisingly, generally found between eastern Texas and Louisiana, and represents approximately three percent of each order's total route disposition. In terms of milk production, only 19 of the 57 counties suggested by the commenters to become part of the Southeast order area had milk production pooled under theSoutheast order in either December 1996 or May 1997. All of these 19 counties were located in the northernmost of 3 sections of Texas proposed by commenters to be added to the Southeast area, and less than 20 percent of the milk production from these counties was pooled under the Southeast order. This limited association does not support including east Texas in the Southeast marketing area.

Arizona-Las Vegas

As suggested in the Revised Preliminary Report on Order Consolidation, the proposed Arizona-Las Vegas marketing area is comprised of the current Central Arizona (Order 131) marketing area, one county in Nevada which currently is in the Great Basin (Order 139) marketing area, and currently unregulated counties in Arizona. There are 16 counties in this proposed area.

Geography

The Arizona-Las Vegas market is described geographically as follows: All counties (15) in Arizona (6 whole and 1 partial currently are part of Order 131, and 8 whole and 1 partial currently are unregulated) and Clark County, Nevada, which currently is part of the Great Basin marketing area. The market extends about 400 miles north to south from Arizona's border with Utah (and Nevada's southernmost county) to the U.S.-Mexico border. The market ranges from 300 to 375 miles east to west from the Arizona-New Mexico border to theArizona/southern Nevada-California border.

The Arizona-Las Vegas marketing area is contiguous to two proposed consolidated marketing areas, the Great Basin portion of the proposed Western area to the north and the New Mexico-West Texas portion of the Southwest area to the east. California, not currently part of the Federal order system, lies to the west and Mexico is south of this marketing area.

Arizona can be divided into three geographic regions—the Sonoran Desert, in the southwest; the Colorado Plateau, in the north; and the Mexican Highland, mainly in the central and southeastern parts of the state. With each of these regions, three distinct climatic zones exist: the Sonoran Desert is hot in the summer but can experience frost in the winter; the Colorado Plateau is hot and dry in the summer and cold and windy in the winter; and the Mexican Highland receives significant precipitation in both summer and winter. This region is cooler in both summer and winter than the Sonoran Desert region.

These topographical and climatic conditions apparently are conducive to milk production. Dairy products represent one of the principal agricultural commodities (2nd and 3rd) in the States of Arizona and Nevada, respectively, representing 16.6 and 21.7

percent of total agricultural receipts of the two States in 1996.

Population

Arizona is one the fastest-growing states in the United States. According to July 1, 1996, population estimates, the total population in the proposed marketing area is 5.5 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Phoenix-Mesa (Phoenix) area, located in central Arizona approximately 125 miles north of the U.S.-Mexico border in the Sonoran Desert region. About 250 miles to the northwest of Phoenix is the Las Vegas, Nevada, area, the second-largest population center in this marketing area. The Las Vegas MSA is comprised of three counties: Clark and Nye counties in Nevada and Mohave County in Arizona. Half of this market's population is in the Phoenix area, and over 70 percent is accounted for when Las Vegas is added.

Fluid Per Capita Consumption

Based on the population figure of 5.5 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the Arizona-Las Vegas marketing area is estimated at 110 million pounds per month. Plants that would be fully regulated distributing plants in the Arizona-Las Vegas order had route disposition within the market of approximately 96 million pounds in January 1997. Another 3.3 million pounds of milk was sold in the Las Vegas area, all by handlers fully regulated under the Great Basin Federal order (Order 139).

Milk Production

In December 1996, almost 201 million pounds of milk was pooled in the Central Arizona market, supplied by over 100 producers located in fewer than 10 counties in Arizona and California. Over 90 percent of the Central Arizona milk was produced within the marketing area. Further, over 90 percent of the producer milk produced within the Order 131 area was produced in Maricopa County, Arizona, where Phoenix, this market's largest city, also is located. With 181 million pounds of producer milk for December 1996, Maricopa County produces almost twice the amount of milk required to meet the fluid milk needs of the entire marketing area. Arizona producers did not supply milk to any other Federal order; however, it is known that producer milk moves from both Arizona and Clark County, Nevada, to southern California. These figures do not reflect the producer milk associated with Anderson Dairy, the Las Vegas handler who has been pooled on Order 139. There is only one producer located in Clark County, Nevada. The portion of Anderson's milk supply that is not supplied by the single Clark County producer comes from southern California.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 9 distributing plants would be expected to be associated with the proposed Arizona-Las Vegas marketing area, including 5 fully regulated distributing plants (all currently pool plants), 1 exempt plant and 3 producer-handlers. Two distributing plants (1 pool plant and 1 producer-handler, both located in the Phoenix area) that were operating in October 1995 are now out of business. There are 4 distributing plants in the Phoenix area (all pool plants). Located in the Las Vegas MSA are one pool plant and a producer-handler located in a currently-unregulated Arizona county. This producer-handler has no sales into either the Order 131 or 139 marketing area, but would meet the producer-handler definition upon order consolidation and market area expansion. Two other producer-handlers are located in the Yuma, Arizona, MSA (located in southwestern Arizona on the California-Arizona-Mexico border). The exempt plant is located in a currently-unregulated Arizona county with no sales into the current Central Arizona marketing area, and with total route disposition of less than 150,000 pounds. All of the plants that are expected to be fully regulated under this proposed order are located in areas that contain over 70 percent of the proposed market's population.

Utilization

According to October 1995 pool statistics, the Class I utilization for the Central Arizona market was about 49 percent. Due to restricted information, this calculation excludes receipts for the Las Vegas handler who currently is regulated under Order 139. Because the degree of consolidation proposed for this market is very minor, little change in the Class I utilization percentage, and thus little change in producer returns, is expected in the Arizona-Las Vegas area as a result of the proposed consolidation. For December 1996, Class I utilization for the Central Arizona market was 41.7 percent based on the use of 83,757,000 pounds of producer milk in Class I out of 200,939,000 total pounds of producer milk.

Other Plants

For May 1997, 3 supply or manufacturing plants were located within the Arizona-Las Vegas marketing area: 2 in Arizona (both in the Phoenix area) and 1 in Nevada (in the Las Vegas area). One Arizona plant is a pool plant operated by the cooperative, manufacturing primarily cheese, while the other plants are nonpool plants manufacturing primarily Class II products.

Cooperative Associations

For December 1995, the only cooperative having membership in the Arizona-Las Vegas marketing area was United Dairymen of Arizona, which represented approximately 90 percent of the milk pooled under the Central Arizona order.

Criteria for Consolidation

Market data indicate that there are extensive sales into the Las Vegas area by Central Arizona pool plants, and sales by both Phoenix and Las Vegas handlers into the unregulated areas along the southern part of the Nevada-Arizona border. Rapid population growth in the area between the two areas has greatly increased competition between the handlers in Phoenix and Las Vegas. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California. At the same time, the strength of the earlier relationship between the Las Vegas area and Utah clearly has declined since the merger of the Lake Mead and Great Basin order areas in 1988, which was based on data compiled up to 1986.

The Grand Canyon serves as a natural barrier in northwestern Arizona between this area and Great Basin. Although the actual proposed order area extends to the Utah border, the portion of Arizona between the Grand Canyon and Utah is very sparsely populated, and is included in the proposed marketing area primarily for the purpose of simplifying the marketing area description and easing handlers' burden of reporting out-of-area sales. The Colorado River forms much of the western boundary with California and Nevada. A north-south strip along the eastern edge of Arizona constituting approximately 30 percent of the State's territory is very sparsely populated, containing just over 5 percent of the population of the proposed marketing area. This lightly populated desert area can be seen as another form of natural

barrier to the movement of bulk and packaged milk.

Discussion of Comments and Alternatives

Two comments filed in response to the Revised Preliminary Report on Order Consolidation recommended that Clark County, Nevada, be returned to the Western marketing area, with the Great Basin, Western Colorado and Southeastern Idaho-Eastern Oregon marketing areas. Anderson Dairy, the handler located in Las Vegas, Nevada, requested that the Western marketing order remain as it was in the initial Preliminary Report. Anderson stated that its major competition comes from southern California and northern Utah, and that one or the other of these areas could gain a significant advantage if Anderson becomes an island between these two powerful competitive areas with different marketing systems. Comments from Darigold also supported the original proposed Western marketing area. Darigold stated that because Class I sales in Las Vegas historically have been associated with the Great Basin producer pool rather than with the Phoenix market, shifting those sales would be controversial and should be reviewed carefully.

Comments from a California cooperative indicated support for the proposed Arizona-Las Vegas order. The cooperative referenced its earlier concern about milk moving between southern California and both the State of Arizona and Clark County, Nevada, on a daily basis.

The increase in sales by Central Arizona pool plants into the Las Vegas area, and increased sales by both Phoenix and Las Vegas handlers into the unregulated area of rapidly-increasing population along the southern part of the Nevada-Arizona border, are factors that have greatly increased overlapping route distribution in these two areas. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California. The Las Vegas area's earlier relationship with southern Utah was based primarily on Utah as an important milk supply area for Las Vegas at the time of the merger of the Lake Mead and Great Basin order areas in 1988. That relationship clearly has ceased to exist. Therefore, the proposal by cementers that the Las Vegas, Nevada, area continue to be included in the same marketing area with Utah does not reflect current marketing conditions.

Western

The proposed Western marketing area is comprised of the current Western Colorado (Order 134), Southwestern Idaho-Eastern Oregon (Order 135), and Great Basin (Order 139) marketing areas, less one Nevada county (Clark) in Order 139 that is proposed to be in the Arizona-Las Vegas marketing area. There are 71 counties in this proposed area.

Geography

The Western market is described geographically as follows: 4 counties in western Colorado (all currently in Order 134), 28 in Idaho (18 currently in Order 135 and 10 in Order 139), 3 in eastern Nevada (all currently in Order 139), 5 in eastern Oregon (all currently in Order 135), all counties (29) in Utah (currently in Order 139) and 2 in the southwest corner of Wyoming (currently in Order 139). Measuring the extreme dimensions, this market extends about 625 miles north to south from Oregon and Idaho to Utah's boundary with Arizona, ranging from 125 miles in Colorado to 475 miles from Idaho to the Utah-Arizona border. Similarly, this market's extreme east-to-west dimension is 650 miles from the westernmost edge in central/eastern Oregon to the easternmost edge in west/central Colorado.

The proposed Western marketing area is contiguous to three of the proposed consolidated marketing areas, the Pacific Northwest to the west and north of the Oregon portion of this market, Arizona-Las Vegas to the south and the Southwest to the extreme southeast corner. Non-Federally regulated territory borders the Western market on the west-southwest (Nevada) and the north-northeast (Idaho and Wyoming). To the east lie the Rocky Mountains in central Colorado, serving as a natural barrier between the Western market and the Central market, whose westernmost edge begins in eastern Colorado. The Continental Divide lies just to the east of the Western market.

In terms of physical geography, the Western marketing area has several regions: the Columbia Plateau in southern Idaho and northeastern Nevada, characterized by fertile soils; the Great Basin in southeast Idaho, nearly all of Nevada and the western third of Utah, described by ranges and parallel valleys; and the Colorado Plateau in the eastern half of Utah and western part of Colorado, characterized by gorges in Utah and canyons, mesas and valleys in Colorado. In general, the Western market is quite dry, with temperatures tending to be extreme and affected by elevation.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 3.3 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Salt Lake City-Ogden, Utah area (Salt Lake City). Salt Lake City is located in north central Utah. The Boise City, Idaho, area (Boise), the second largest population center in this marketing area, is located about 300 miles to the northwest of Salt Lake City. Provo-Orem, Utah, (Provo) the third largest population center, lies 40 miles south of Salt Lake City. Grand Junction, Colorado, (Grand Junction), located about 290 miles southeast of Salt Lake City, is the fourth largest population center in the Western market; but is less than 10 percent the size of Salt Lake City. Slightly over one-third of the market's population is in the Salt Lake City area, and over 60 percent is accounted for when Boise, Provo and Grand Junction are added.

Fluid Per Capita Consumption

Based on the population figure of 3.3 million and an estimated per capita fluid milk consumption rate of 23 pounds of fluid milk per month, total fluid milk consumption in the Western marketing area is estimated at 75.9 million pounds per month. Plants that would have been fully regulated distributing plants in the Western order had route disposition within the market of 76.5 million pounds in October 1995; almost 75 percent of this total is from Order 139 pool plants. The 10 producer handlers operating during this month had a combined route disposition of 1.7 million pounds. Additionally, 2.8 million pounds of route disposition came from handlers outside the market.

Milk Production

In December 1996, nearly 450 million pounds of milk was pooled in the proposed Western market from more than 1,000 producers located in more than 70 counties in California, Colorado, Idaho, Oregon and Utah. Over 95 percent of the producer milk was produced within the marketing area. Four counties produced 50 percent of the milk pooled. The three top producing counties in Idaho, Jerome, Gooding and Twin Falls counties, are all located in southwestern Idaho, about 130 miles southeast of Boise and 230 miles northwest of Salt Lake City. Jerome and Gooding counties each provided twice as much producer milk as Twin Falls County, the third-largest county in terms of producer milk in the Western market. The fourth-largest

production county was Cache County in northeastern Utah, located about 80 miles north of Salt Lake City.

The three Idaho counties provided producer milk for both Order 135 and Order 139 in December 1996. Specifically, Jerome County producers had the greatest amount of producer milk on both Order 135 and Order 139. Gooding and Twin Falls counties were in the top four for volume in Order 139 and were second and third for volume in Order 135.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 28 distributing plants would be expected to be associated with the Western marketing area, including 11 fully regulated distributing plants (all currently pool plants), 1 partially regulated (currently partially regulated), 3 exempt plants based on size (2 currently are pool plants but have less than 150,000 pounds of total route distribution and the other is currently unregulated), 9 producer-handlers, and 4 exempt plants based on institutional status (all were exempt as defined under current federal orders). Since October 1995, it is known that 1 distributing plant (a producer-handler) in Utah has gone out of business.

There would be 11 distributing plants in the Salt Lake City area (5 pool plants, 3 producer-handlers and 3 exempt plants). The Boise area would have 2 pool distributing plants, the Provo area would have 1 producer-handler and the Grand Junction area would have 1 exempt plant. The remaining 14 distributing plants are located in Colorado (1 plant, fully regulated); Idaho (4 plants: 2 pool, 1 exempt, and 1 producer-handler), Nevada (2 plants, both unregulated), and Utah (7 plants: 1 pool, 1 partial, 1 exempt, 4 producer-handlers).

Fully regulated distributing plants are located in MSAs containing about half of the proposed market's population, including the Pocatello, Idaho, MSA, with 2.2 percent of this market's population.

Utilization

According to October 1995 pool statistics, the Class I utilization percentages for the individual markets ranged from 18 percent for Southwestern Idaho-Eastern Oregon to 35 percent for Great Basin. Information for Western Colorado is restricted due to fewer than three handlers in the market. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Western order, the potential impact of this proposed rule on producers who supply the current market areas is estimated to be: Western Colorado, a 59-cent per cwt decrease (from $13.41 to $12.82); Southwestern Idaho-Eastern Oregon, a 5-cent per cwt increase (from $12.63 to $12.68); and Great Basin, a 3-cent per cwt decrease (from $12.81 to $12.79). The weighted average use value for the consolidated Western order market is estimated to be $12.78 per cwt. For December 1996, combined Class I utilization for Orders 135 and 139 (Western Colorado information is restricted) was 19.9 percent based on 87.7 million pounds of producer milk used in Class I out of 440.1 million total producer milk pounds.

Other Plants

Nineteen supply or manufacturing plants were located within the proposed Western marketing area during May 1997: 1 in Colorado (in the Grand Junction area), 8 in Idaho (3 in the Boise area), 9 in Utah (2 in the Salt Lake City area) and 1 in Wyoming. Two of the 19 plants were pool plants; both manufacture primarily cheese. Of the 17 nonpool plants, 12 manufacture primarily cheese and 5 manufacture primarily soft or Class II products (including ice cream). Of the 8 Idaho plants, all but one manufacture cheese, while of the 9 Utah plants, 6 manufacture cheese and 3 manufacture soft products.

Cooperative Associations

For December 1995, four cooperatives representing 56 percent of the milk pooled under the three orders had membership in the proposed Western marketing area. Western Dairymen Cooperative, Inc., had membership in Western Colorado, Southwestern Idaho-Eastern Oregon and Great Basin; Magic Valley Quality Milk Producers, Inc., had membership in Orders 135 and 139; Darigold Farms had membership in Order 135, and Security Milk Producers' Association had membership in Order 139.

Criteria for Consolidation

As suggested in the Revised Report on Order Consolidation, the consolidated Western market should be composed of the current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon and Great Basin markets (minus the Clark County, Nevada, portion of the Great Basin area). Sales overlap exists between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in Idaho. The two orders also share similar multiple component pricing plans. The Western Colorado order has some route disposition within the Great Basin order, and must be included in a consolidated order area because it is a small market for which data cannot be released without revealing confidential information unless combined with the adjacent Great Basin order.

Discussion of Comments and Alternatives

Several comments opposed consolidating the Southwestern Idaho-Eastern Oregon order area with the Great Basin marketing area. A primary basis for opposition to the consolidation is the disparity in the two regions' utilization of Class I fluid milk: the Southwestern Idaho-Eastern Oregon order has a very low percentage of Class I use, while the Great Basin order's Class I use percentage is higher at about 35 percent, and Western Colorado's is higher still. Commenters fear that the consolidation of these orders would result in lower returns to producers who currently are pooled under the Great Basin and Western Colorado orders. Some comments suggest that the Southwestern Idaho-Eastern Oregon marketing area should remain under a separate order, with the Great Basin market consolidated with markets such as Arizona, Western Colorado, or Eastern Colorado. One comment supported keeping both the Southwestern Idaho-Eastern Oregon and Great Basin marketing areas separate because of the differences in Class I use.

Comments filed by Western Colorado producers and their cooperative state that the Western Colorado area should be combined with the Central market because: (1) It's data has always been combined with that for Eastern Colorado, (2) the Eastern Colorado blend price to producers is higher than Great Basin's, (3) Colorado is a milk import state, whereas Utah is a milk export state, (4) the Western and Eastern Colorado order areas operate under quota plans, while the Great Basin area does not, and (5) Western Colorado is a milk surplus area ''with a freight history.''

The effects of the proposed order consolidation on returns to producers pooled under the current Southeastern Idaho-Eastern Oregon and Great Basin marketing areas are not expected to be substantial. However, the proposed consolidation would reduce the blend price to be paid to producers whose

milk is currently pooled under the Western Colorado order. This market must be included in a consolidated order because it currently has too few pooled handlers to allow market data to be published without revealing confidential data. The Western area is the most logical. The adjoining Great Basin marketing area represents the closest reserve supply of milk and the closest available manufacturing outlets for surplus production; and the largest cooperative association in the Great Basin area is the same cooperative representing the Western Colorado producers. Small amounts of packaged fluid milk products are exchanged between Eastern and Western Colorado handlers, some packaged milk is distributed on routes in the Western Colorado area by Eastern Colorado handlers, and bulk cream regularly moves from Western Colorado plants to the Eastern Colorado area. A volume of route dispositions similar to that distributed by Eastern Colorado handlers in Western Colorado is distributed by Western Colorado handlers in the Great Basin area. In addition, movements of bulk milk from Western Colorado to Great Basin plants occur in volumes about 3 times those distributed on routes from Eastern into Western Colorado, and from Western Colorado into the Great Basin area. The Rocky Mountains represent a very large natural barrier between Western Colorado and the more eastern marketing areas.

Data for the Eastern and Western Colorado orders have been reported on a combined basis for a number of years as a matter of administrative convenience because of the restricted nature of Western Colorado data, rather than on the basis of any close affinity between the two markets. While Colorado may be a net import state, that assertion does not apply to the western portion of the State. Milk production data for December 1996 and May 1997 show no milk from other states pooled under the Western Colorado order. Surplus production from the western Colorado counties generally is shipped to Utah manufacturing plants rather than across the Rocky Mountains (except for very minor volumes during 7 of 32 months in 1995–97). The issue raised by the Western Colorado producers of quota in the Colorado orders is not related to Federal milk order provisions; there are no quota provisions in any of the Federal orders. The quota referred to apparently is a pooling plan operated by the producers' cooperative, and certainly can be continued by the cooperative association under the proposed consolidated orders. For the foregoing reasons, the rationale is stronger for including the Western Colorado marketing area in the Western consolidated order area than in the Central area.

Pacific Northwest

The proposed Pacific Northwest marketing area is comprised of the current Pacific Northwest (Order 124) marketing area and one currently-unregulated county in southwest Oregon. There are 75 counties in this proposed area.

Geography

The proposed Pacific Northwest market is described geographically as follows: All counties (39) in Washington, 30 counties in Oregon (29 currently are part of Order 124 and one, Curry County, is unregulated) and six counties in northwestern Idaho. The market extends about 490 miles north-to-south from Washington's northern border with the Canadian province of British Columbia to Oregon's southern border with California and Nevada. East-to-west, the market ranges from about 450 miles in the northern half of the market (covering territory from Washington's western boundary with the Pacific Ocean to the eastern border of Idaho with Montana) to about 250 miles in the southern half of the market (covering approximately two-thirds of Oregon from the state's western border with the Pacific Ocean to central Oregon).

The proposed Pacific Northwest marketing area is contiguous to the proposed consolidated Western Federal order marketing area in eastern Oregon. The remainder of the marketing area is surrounded by currently non-Federally regulated areas (California and northwestern Nevada to the south and Montana, Idaho, and one northeastern Oregon county to the east), political boundaries (Canada to the north), and the Pacific Ocean to the west.

Along the Oregon and Washington coasts lies the Coast Range. The Cascade Range is located further inland in both states. Both ranges are north-south in direction, and the Cascade Range effectively divides both states into two distinct climates: a year-round mild, humid climate with abundant precipitation predominates in the western part of the states, and a dry climate with little precipitation but greater temperature extremes prevails east of the Cascade Range. The mild climate of the western portion results in longer growing seasons. The Columbia River flows south through eastern Washington, turns west, and becomes the western two-thirds of the border between Oregon and Washington. The portion of Idaho included in the current and proposed Pacific Northwest marketing area is within the Rocky Mountains. This area has a generally continental climate with the higher elevations having long and severe winters.

Much of the area is conducive to the production of milk and many other agricultural commodities. Although dairy products ranked 2nd among receipts of agricultural commodities in the State of Washington in 1996, and 4th in Oregon, they accounted for only 13.8 percent and 7.9 percent, respectively, of such receipts. Apples (in Washington) and greenhouse/nursery, wheat, and cattle and calves (in Oregon) ranked ahead of dairy, accounting for 19.8 percent and 33.8 percent, respectively, of agricultural commodity receipts.

Population

According to July 1, 1996, population estimates, the total population in the proposed marketing area is 8.8 million. Seventy-seven percent of the marketing area population is located in Metropolitan Statistical Areas (MSAs). The two largest MSAs are located on the western side of the Cascade Range. The Seattle-Tacoma-Bremerton (Seattle) area, with a population of 3.3 million (37.5% of the marketing area population), is in northwestern Washington. Over seventy percent of the population of the State of Washington is located west of the Cascade Mountains, in the western third of the State. Another 14.5% of the State's population is contained in 3 MSA's east of the Cascades.

The Portland-Salem (Portland) area in northwestern Oregon is located on the Oregon-Washington border, with Portland just south of the Columbia River. The population of this MSA is 2.1 million, or 23.5% of the marketing area population. Ninety percent of the population of Oregon is concentrated in the western one-third of the State, or in the western half of the Oregon portion of the marketing area.

Fluid Per Capita Consumption

Based on the population figure of 8.8 million and an estimated per capita fluid milk consumption rate of 22 pounds of fluid milk per month, total fluid milk consumption in the Pacific Northwest marketing area is estimated at 193.6 million pounds per month. For October 1995, plants that would be fully regulated distributing plants under the proposed Pacific Northwest order had

route disposition within the market of 170 million pounds. In addition, the 18 producer-handlers operating during this month had a combined route disposition of 18 million pounds. Additionally, slightly over 1 million pounds of route disposition (less than one percent of total route disposition in the marketing area) came from handlers outside the market. Because the handlers associated with this market are able to fulfill the market's Class I or fluid needs, and because of the somewhat geographic isolation of the market, maintaining the current Pacific Northwest order as a separate market is appropriate.

Milk Production

In December 1996, the 540 million pounds of milk pooled in the Pacific Northwest market were produced by 1,280 producers located in 57 counties in California, Oregon, Idaho and Washington. Four counties produced 50 percent of the milk pooled. Three of these counties are in Washington State. They are Whatcom and Skagit counties, which are less than 100 miles north of Seattle; and Yakima County, which is located in central Washington about 100 miles southeast of Seattle on the eastern side of the Cascade Range. The fourth county is in Oregon. It is Tillamook County, which is located on the Pacific Ocean, about 60 miles west of the Portland area on the western side of the Coast Range. Less than two percent of the milk pooled in the Pacific Northwest was produced outside of the marketing area, in Idaho and California. The largest portion is from producers in two northern California counties who pooled 6 million pounds of milk or 89.6 percent of the pooled milk produced outside the Pacific Northwest marketing area.

Distributing Plants—Route Distribution

Using distributing plant lists included in both the initial Preliminary and Revised Preliminary Reports and the pooling standards used in the Revised Preliminary Report, updated for known plant closures through May 1997, 39 distributing plants would be expected to be associated with the Pacific Northwest market, including 20 fully regulated distributing plants, 1 partially regulated plant, 3 exempt plants (below 150,000 pounds in total route disposition), and 15 producer-handlers. It is known that 4 distributing plants (1 pool plant and 3 producer handlers) have gone out of business since the initial report.

There are 11 distributing plants within the Portland area, including 7 pool plants, 2 exempt plants and 2 producer-handlers. The Seattle area has 4 pool plants and 7 producer-handlers. In addition to these two main population centers, the Spokane, Washington, MSA, located in the eastern area of the state near the Idaho border with a population of 405,000, has 3 pool plants. One of these plants, Wilcox Farms, Cheney, Washington, began packaging and distributing products in the spring of 1997 and is not included in the market's route disposition data for October 1995, the month used for analysis.

Of the 9 distributing plants that would be operating in Oregon, 5 would be fully regulated. Four are located in western Oregon, and the fifth in central Oregon. Of the 4 Oregon plants anticipated to be non-pool distributing plants, one would be partially regulated (but currently is fully regulated), one would be exempt, and two would be producer-handlers. Two other producer-handlers have gone out of business since October 1995.

Of the 6 distributing plants in Washington that would be in operation, one was and will continue to be a pool plant, one would be exempt (that currently is a pool plant), and 4 would be producer-handlers. Two other distributing plants (one pool plant and one producer-handler) have gone out of business since October 1995.

Distributing plants fully regulated under the proposed Pacific Northwest order are located in MSAs where 71 percent of the proposed market's population is concentrated.

Utilization

According to October 1995 pool statistics, the Class I utilization percentage for the Pacific Northwest market was about 36 percent. Because this market is proposed to remain separate, expected utilization changes due to the reform process result only from potential changes in plants' regulatory status; thus very little change in producer returns under the Pacific Northwest order is expected as a result of consolidation. For December 1996, Class I utilization for the Pacific Northwest market was 32.5 percent based on 175,712,000 pounds of producer milk used in Class I out of 540,334,000 total producer milk pounds.

Other Plants

Also located within the proposed Pacific Northwest marketing area in May 1997 were 27 supply or manufacturing plants; 12 in Oregon (5 in the Portland area), 15 in Washington (7 in the Seattle area) and none in Idaho. Two of the 27 plants (both in Oregon) are Order 124 pool supply plants, one of which manufactures primarily cheese, and the other nonfat dry milk. Of the 10 nonpool manufacturing plants located in Oregon, 8 manufacture primarily Class II products (including ice cream), 1 manufactures butter, and the other makes cheese.

The 15 manufacturing/supply plants located in the State of Washington are all nonpool plants. Three manufacture primarily Class II products, 3 manufacture primarily butter, 2 manufacture primarily powder, and 7 manufacture primarily cheese.

Cooperative Associations

Five cooperative associations have members in the Pacific Northwest market. Darigold Farms is the largest, and the only cooperative that had membership affiliated with another order (Order 135) in December 1995. Other cooperatives in this market are Farmers Cooperative Creamery, Tillamook County Creamery Association, and Northwest Independent Milk Producers Association. These five cooperatives pooled 78 percent of the total producer milk pooled under the Pacific Northwest order in December 1995.

Criteria for Consolidation

As suggested in both the initial and Revised Preliminary Reports on Order Consolidation, the consolidated Pacific Northwest market should add one currently unregulated Oregon county to the Pacific Northwest milk order. The degree of association of this market with other Federal order marketing areas is insufficient under any criteria to warrant consolidation with any other order areas.

Discussion of Comments and Alternatives

Several comments on the Pacific Northwest marketing area suggested in the 2 preliminary reports were filed by cooperative associations operating in the area. Darigold, the area's largest cooperative, commented that there is strong justification for the order boundaries of the current Pacific Northwest order area. Two other cooperatives had earlier supported a broader consolidation, including at least the Southwestern Idaho-Eastern Oregon and, perhaps, the Great Basin order areas. However, as discussed in the two preliminary reports on order consolidation, there is virtually no relationship with regard to either overlapping route dispositions or overlapping milk procurement between the Pacific Northwest and Southwestern Idaho-Eastern Oregon milk marketing areas.

LIST OF PLANTS AND REGULATORY STATUS

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
NORTHEAST					
ALDRICH DAIRY	FREDONIA	NY		5	3B
ARRUDA, GEORGIANNA (ESTATE OF)	TIVERTON	RI	New England	4	4
BANGMA, LEONARD & DONALD	UXBRIDGE	MA	New England	4	4
BECHTEL DAIRIES, INC	ROYERSFORD	PA	Mid Atlantic	1	1
BOICE BROS. DAIRY (RICHARD P. BOICE).	KINGSTON	NY	NY–NJ	1	1
BOOTH BROTHERS DAIRY, INC	BARRE	VT	New England	2	1
BRIGGS, ROBERT A	WEST MEDWAY	MA	New England	4	4
BROOKSIDE DAIRY	FITCHBURG	MA	New England	4	4
BYRNE DAIRY, INC	SYRACUSE	NY	NY–NJ	1	1
CAMPHILL VILLAGE	KIMBERTON	PA		5	3B
CHARLAP DAIRY FARMS, INC	HAMBURG	NY		5	1
CHRISTIANSEN DAIRY CO., INC	NO. PROVIDENCE	RI	New England	1	1
CHROME DAIRY FARMS	OXFORD	PA	Mid Atlantic	1	1
CIENIEWICZ, JOSEPH	BERLIN	CT	New England	4	4
CLIFFORD W. & MARIE B. MOYER	DUBLIN	PA		5	3B
CLINTON MILK CO	NEWARK	NJ	NY–NJ	1	1
CLOVER FARMS DAIRY COMPANY	READING	PA	NY–NJ	1	1
CLOVERLAND/GREEN SPRING DAIRY	BALTIMORE	MD	Mid Atlantic	1	1
CLOVERLAND/GREEN SPRING DAIRY	BALTIMORE	MD	Mid Atlantic	1	1
COOPER'S HILLTOP DAIRY FARM	ROCHDALE	MA	New England	4	4
CORBY, CHARLES	PITTSFORD	NY		5	3B
CORNELL UNIVERSITY	ITHACA	NY		5	6B
CRESCENT RIDGE DAIRY, INC	SHARON	MA	New England	4	4
CROWLEY FOODS, INC	BINGHAMTON	NY	NY–NJ	1	1
CROWLEY FOODS, INC	ALBANY	NY	NY–NJ	1	1
CROWLEY FOODS, INC	CONCORD	NH	New England	1	1
CUMBERLAND DAIRY, INC	BRIDGETON	NJ	Mid Atlantic	1	2
CUMBERLAND FARMS, INC	EAST GREENBUSH	NY	NY–NJ	1	1
CUMBERLAND FARMS, INC	CANTON	MA	New England	1	1
CUMBERLAND FARMS, INC	FLORENCE	NJ	Mid Atlantic	1	1
DAIRY MAID DAIRY, INC	FREDERICK	MD	Mid Atlantic	1	1
DAVID F. ARMSTRONG (SUNSET DAIRY).	WHITESBORO	NY	NY–NJ	1	1
DAVID NICHOLS	CHESTERFIELD	MA			3B [2]
DELLWOOD FOODS, INC. (TUSCAN DAIRY FARMS, INC.).	YONKERS	NY	NY–NJ	1	OOB
DUNAJSKI DAIRY, INC	PEABODY	MA	New England	4	4
DUTCH VALLEY FOOD CO., INC	SUNBURY	PA	Mid Atlantic	1	1
DUTCH WAY FARM MARKET	MYERSTOWN	PA	Mid Atlantic	4	4
EDWARDS, CHARLES (& KURT & KEITH—MODEL DAIRY FARM).	GLOVERSVILLE	NY	NY–NJ	4	4
ELMHURST DAIRY, INC	JAMAICA	NY	NY–NJ	1	1
EMBASSY DAIRY, INC	WALDORF	MD	Mid Atlantic	1	1
EMMONS WILLOW BROOK FARM, INC	PEMBERTON	NJ	Mid Atlantic	4	4
FAIRDALE FARMS, INC	BENNINGTON	VT	New England	2	1
FARMERS COOP. DAIRY, INC	HAZELTON	PA		5	5
FARMLAND DAIRIES, INC. &/OR FAIRDALE MILK COMPANY, INC.	WALLINGTON	NJ	NY–NJ	1	1
FISH FAMILY FARM, INC	BOLTON	CT	New England	4	4
FREDDY HILL FARM DAIRY	LANSDALE	PA	Mid Atlantic	4	4
FREDRICK HINE	ORANGE	CT		5	3B
FRIENDSHIP DAIRIES, INC	FRIENDSHIP	NY	NY–NJ	1	2
GARELICK FARMS, INC	FRANKLIN	MA	New England	1	1
GIANT FOOD, INC	LANDOVER	MD	Mid Atlantic	1	1
GRATERFORD STATE	GRATERFORD	PA	Mid Atlantic	6A	6B
GUERS DY., INC	POTTSVILLE	PA	Mid Atlantic	2	2
GUIDA-SEIBERT DAIRY CO	NEW BRITAIN	CT	New England	1	1
HALO FARM, INC	TRENTON	NJ	Mid Atlantic	1	1
HARBY, JOSEPH F	WALTON	NY	NY–NJ	1	OOB
HARRISBURG DAIRIES	HARRISBURG	PA	Mid Atlantic	1	1
HERITAGE'S DAIRY, INC	THOROFARE	NJ	Mid Atlantic	1	1
HERMANY FARMS, INC	BRONX	NY	NY–NJ	1	1
HIGHLAWN FARM	LEE	MA		5	3B
HILL FARM OF VERMONT	PLAINFIELD	VT		5	3B
HILLCREST DAIRY, INC. (MICHAEL J. JANAS).	MORAVIA	NY	NY–NJ	4	4
HOGAN, FRANCIS J. (& ANDREW J. & SEAN P.—HOGAN'S DAIRY).	HUDSON FALLS	NY	NY–NJ	4	4
HOMESTEAD DAIRIES, INC	MASSENA	NY		5	1
HOOVER DAIRY	SANBORN	NY		5	3B
HOWARD HATCH	N. HAVERHILL	NH	New England	1	1
HUDAK, RUDOLPH	SHELTON	CT	New England	4	OOB
HY POINT DAIRY FARMS, INC	WILMINGTON	DE	Mid Atlantic	1	1
H.E.A., INC	CRANSTON	RI	New England	1	1
H.P. HOOD, INC	NEWINGTON	CT	New England	2	2
H.P. HOOD, INC	PORTLAND	ME	New England	1	1
H.P. HOOD, INC	AGAWAM	MA	New England	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
H.P. HOOD, INC	CHARLESTON	MA	New England	1	OOB
H.P. HOOD, INC	BURLINGTON	VT	New England	2	1
H.P. HOOD, INC	ONEIDA	NY	NY–NJ	2	1
KEMPS FOODS, INC	LANCASTER	PA	Mid Atlantic	1	1
KOLB'S FARM STORE	SPRING CITY	PA	Mid Atlantic	4	4
KREIDER DAIRY FARMS, INC	MANHEIM	PA	NY–NJ	2	1
KRISCO FARMS, INC. (KRISCO FARMS)	CAMPBELL HALL	NY	NY–NJ	4	4
LAPP VALLEY FARM	NEW HOLLAND	PA	Mid Atlantic	4	4
LEHIGH VALLEY DAIRIES, INC	FORT WASHINGTON	PA	Mid Atlantic	1	OOB
LEHIGH VALLEY DAIRIES, INC	LANSDALE	PA	NY–NJ	1	1
LEHIGH VALLEY DAIRIES, INC	SCHUYKILL HAVEN	PA	NY–NJ	2	2
LEWES DAIRY, INC	LEWES	DE	Mid Atlantic	1	1
LEWIS COUNTY DAIRY CORP	LOWVILLE	NY	NY–NJ	1	1
LONGACRE'S MODERN DAIRY, INC	BARTO	PA	Mid Atlantic	2	2
LUNDGREN & JONAITIS DAIRY FARMS, INC. (WHITTIER CREAMERY CO., INC.).	SHREWSBURY	MA	New England	1	1
MANINO, ROSE (DARI-DELL)	FRANKFORT	NY	NY–NJ	2	3B
MAPLE HILL FARMS, INC	BLOOMFIELD	CT	New England	1	1
MAPLEDALE DAIRY, INC	ROME	NY	NY–NJ	1	OOB
MAPLEHOFE DAIRY, INC	QUARRYVILLE	PA	Mid Atlantic	4	4
MARCUS DAIRY, INC	DANBURY	CT	NY–NJ	1	1
MASON-DIXON FARM DAIRY	GETTYSBURG	PA	Mid Atlantic	1	OOB
MEADOW BROOK FARMS, INC	POTTSTOWN	PA	Mid Atlantic	1	1
MERCERS DAIRY, INC	BOONVILLE	NY	NY–NJ	2	3B
MERRYMEAD FARM	LANSDALE	PA	Mid Atlantic	4	4
MOHAWK DAIRY (Z & R CORP.)	AMSTERDAM	NY	NY–NJ	1	1
MONUMENT FARMS, INC	MIDDLEBURY	VT		5	1
MOUNT WACHUSETT DAIRY, INC	W. BOYLSTON	MA	New England	1	1
MOUNTAINSIDE FARMS, INC	ROXBURY	NY	NY–NJ	1	1
MUNROE, A B DAIRY, INC	EAST PROVIDENCE	RI	New England	1	1
NEW ENGLAND DAIRIES, INC	HARTFORD	CT	New England	1	1
NICASTRO, JOSEPH & CROSS (RIVERSIDE FARMS) (NICASTRO FARMS, INC.).	FRANKFORT	NY	NY–NJ	4	4
NIP N TUCK FARMS	VINEYARD HAVEN	MA		5	4
OAK TREE FARM DAIRY, INC	EAST NORTHPORT	NY	NY–NJ	1	1
OAKHURST DAIRY	PORTLAND	ME	New England	2	2
OREGON DAIRY FARM MKT	LITITZ	PA	Mid Atlantic	4	4
PARKER, A C & SONS, INC	CLINTON	MA	New England	1	OOB
PARMALAT WEST DAIRIES, INC	SPRING CITY	PA	Mid Atlantic	2	3B
PATRICK MCNAMARA	WEST LEBANON	NH	New England	4	4
PAYNES DAIRY	KNOXVILLE	PA		5	5
PEACEFUL MEADOWS ICE CREAM, INC	WHITMAN	MA	New England	4	4
PEARSON, ROBERT L	WEST MILLBURY	MA	New England	4	4
PECORA'S DAIRY	DRUMS	PA		5	5
PEDRO, JOSEPH	FALL RIVER	MA	New England	4	4
PENNVIEW FARMS	PERKASIE	PA	Mid Atlantic	4	4
PERRYDELL FARMS	YORK	PA	Mid Atlantic	4	4
PETER FLINT	CHELSEA	VT	New England	1	1
PINE VIEW ACRES, INC	LANCASTER	PA	Mid Atlantic	4	4
PIONEER DAIRY, INC	SOUTHWICK	MA	New England	1	1
PLEASANT VIEW FARMS DAIRY	ST THOMAS	PA	Mid Atlantic	4	OOB
POTOMAC FARMS DAIRY, INC	CUMBERLAND	MD	Mid Atlantic	2	2
PULEO'S DAIRY	SALEM	MA	New England	1	3B
QUALITY MILK, INC	WARE	MA		5	1
QUEENSBORO FARM PRODUCTS, INC	CANASTOTA	NY	NY–NJ	1	2
READINGTON FARMS, INC	WHITEHOUSE	NJ	NY–NJ	1	1
READY FOODS, INC	PHILADELPHIA	PA	Mid Atlantic	2	2
RICHARDSON FARMS, INC	MIDDLETON	MA	New England	4	4
RICHARDSONS G. H. DAIRY	DRACUT	MA	New England	3A	3B
RIDGE VIEW FARMS	ELIZABETHTOWN	PA	Mid Atlantic	4	4
RITCHEY'S DAIRY	MARTINSBURG	PA	Mid Atlantic	2	2
RONNYBROOK FARM DAIRY, INC	ANCRAMDALE	NY	NY–NJ	4	4
ROSENBERGER'S DAIRY, INC	HATFIELD	PA	Mid Atlantic	1	1
RUDOLPH STEINER EDUCATION & FARMING ASSOC., INC.	GHENT	NY	NY–NJ	4	4
RUSSELL SEARS	CUMMINGTON	MA	New England	4	OOB
RUTTER BROS. DAIRY, INC	YORK	PA	Mid Atlantic	1	1
SALEM VALLEY FARMS, INC	SALEM	CT	New England	4	4
SARATOGA DAIRY, INC. (STEWART'S PROCESSING CORP.).	SARATOGA SPRINGS	NY	NY–NJ	1	1
SCHNEIDER/VALLEY FARMS, INC	WILLIAMSPORT	PA	NY–NJ	2	1
SEWARD DAIRY, INC	RUTLAND	VT	New England	2	1
SHAW FARM DAIRY, INC	DRACUT	MA	New England	4	4
SHENANDOAH'S PRIDE DAIRY	SPRINGFIELD	VA	Mid Atlantic	1	1
STEARNS, WILLARD J. & SONS, INC	STORRS	CT	New England	4	4
STEWART J. LEONARD	NORWALK	CT	New England	1	1
STOP & SHOP COMPANIES, INC	READVILLE	MA	New England	1	1
STUMP ACRES DAIRY FARMS	YORK	PA		5	3B

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
SULOMAN'S MILK	GILBERTSVILLE	PA	Mid Atlantic	4	4
SUNNYDALE FARMS, INC	BROOKLYN	NY	NY–NJ	1	1
SYNAKOWSKI WALTER J (VALLEY SIDE FARM).	REMSEN	NY	NY–NJ	4	4
TANNER BROS. DAIRY	WARMINSTER	PA	Mid Atlantic	4	4
THOMAS, ORIN & SONS, INC	RUTLAND	VT	New England	2	1
TRINITY FARM	ENFIELD	CT	New England	3A	3B
TURKEY HILL DAIRY, INC	CONESTOGA	PA	Mid Atlantic	1	1
TURNER'S DAIRY, INC	SALEM	NH	New England	1	1
TUSCAN DAIRY FARMS, INC	UNION	NJ	NY–NJ	1	1
TUSCAN DAIRY FARMS, INC	FRASER	NY	NY–NJ	2	2
UPSTATE MILK COOPERATIVES, INC	JAMESTOWN	NY		5	2
UPSTATE MILK COOPERATIVES, INC	ROCHESTER	NY	NY–NJ	2	1
UPSTATE MILK COOPERATIVES, INC	BUFFALO	NY	NY–NJ	2	1
VALLEY OF VIRGINIA COOP	MT. CRAWFORD	VA	Mid Atlantic	2	2
VAN WIE, CHARLES F. (MEADOWBROOK FARMS DAIRY).	CLARKSVILLE	NY	NY–NJ	4	4
WAWA DAIRY FARMS	WAWA	PA	Mid Atlantic	1	1
WAY-HAR FARMS	BERNVILLE	PA	NY–NJ	2	3B
WELSH FARMS, INC	LONG VALLEY	NJ	NY–NJ	1	1
WENDTS DAIRY DIV NIAGARA CO	NIAGARA FALLS	NY		5	1
WENGERTS DAIRY, INC	LEBANON	PA	Mid Atlantic	1	1
WEST LYNN CREAMERY, INC	LYNN	MA	New England	1	1
WILLIAM WALSH	SIMSBURY	CT	New England	4	4
WINSOR, S. B. DAIRY, INC	JOHNSTON	RI	New England	1	3B
WRIGHT'S DAIRY FARM, INC	NORTH SMITHFIELD	RI	New England	4	4
APPALACHIAN					
BROADACRE DAIRIES	POWELL	TN	Tenn Valley	1	1
CAROLINA DAIRIES	KINSTON	NC	Carolina	1	1
COBURG DAIRY, INC	N. CHARLESTON	SC	Carolina	1	1
DAIRY FRESH, LP	WINSTON-SALEM	NC	Carolina	1	1
DEAN MILK CO	LOUISVILLE	KY	Louis-Lex-Evans	1	1
FLAV-O-RICH, INC	WILKESBORO	NC	Carolina	1	1
FLAV-O-RICH, INC	LONDON	KY	Tenn Valley	1	1
FLAV-O-RICH, INC	BRISTOL	VA	TennValley	1	1
FLAV-O-RICH, INC	FLORENCE	SC	Carolina	1	1
FLAV-O-RICH, INC	GOLDSBORO	NC	Carolina	1	OOB
GOLDEN GALLON, INC	CHATTANOOGA	TN	Tenn Valley	1	1
HOLLAND DAIRIES, INC	HOLLAND	IN	Louis-Lex-Evans	1	1
HUNTER FARMS	HIGHPOINT	NC	Carolina	1	1
HUNTER FARMS	CHARLOTTE	NC	Carolina	1	1
IDEAL AMERICAN DAIRY	EVANSVILLE	IN	Louis-Lex-Evans	1	1
JACKSON DAIRY	DUNN	NC	Carolina	1	1
JERSEY RIDGE DAIRY, INC	KNOXVILLE	TN	Tenn Valley	1	3B
LAND-O-SUN DAIRIES, INC	KINGSPORT	TN	Tenn Valley	1	1
LAND-O-SUN DAIRIES, INC	PORTSMOUTH	VA	Mid Atlantic	2	2
LAND-O-SUN DAIRIES, INC	SPARTANBURG	SC	Carolina	1	1
MAOLA MILK & ICE CREAM CO	NEW BERN	NC	Carolina	1	1
MAPLEVIEW FARMS	HILLSBORO	NC			1 [2]
MARVA MAID DAIRY	NEWPORT NEWS	VA	Mid Atlantic	2	2
MAYFIELD DAIRY FARMS, INC	ATHENS	TN	Tenn Valley	1	1
MILKCO, INC	ASHEVILLE	NC	Carolina	1	1
NORTH CAROLINA ST. UNIV	RALEIGH	NC	Carolina	6A	6B
PEELER JERSEY FARMS, INC	GAFFNEY	SC	Carolina	1	1
PINE STATE CREAMERY CO	RALEIGH	NC	Carolina	1	OOB
REGIS MILK CO	CHARLESTON	SC	Carolina	1	1
RICHFOOD DAIRY	RICHMOND	VA	Mid Atlantic	2	1
SOUTHERN BELLE DAIRY, INC	SOMERSET	KY	Tenn Valley	1	1
SUPERBRAND DY. PRODS., INC	GREENVILLE	SC	Southeast	1	1
SUPERBRAND DAIRY, INC	HIGHPOINT	NC	Carolina	1	1
U C MILK CO	MADISONVILLE	KY	Louis-Lex-Evans	1	1
WESTOVER DAIRIES	LYNCHBURG	VA	Carolina	1	1
WINCHESTER FARMS DAIRY	WINCHESTER	KY	Louis-Lex-Evans	1	1
FLORIDA					
BORDEN, INC.(TRI-STATE DAIRY)	MIAMI	FL	Southeast Florida	1	1
FARMS STORES, INC. (REW JB DAIRY PLANT ASSOCIATES dba FARM STORES).	MIAMI	FL	Southeast Florida	1	1
GOLDEN FLEECE DAIRY	LECANTO	FL	Tampa Bay	1	3B
GUSTAFSON'S DAIRY, INC	GREEN COVE	FL	Upper Florida	1	1
LIFE STYLE/DIV TG LEE FOODS (T.G. LEE FOODS).	ORANGE CITY	FL	Upper Florida	1	1
LONGLIFE DAIRY PRODUCTS, INC	JACKSONVILLE	FL	Southeast	1	1
M & B DAIRY PRODUCTS, INC	TAMPA	FL	Tampa Bay	1	3B
MCARTHUR DAIRY, INC	PLANTATION	FL	Southeast Florida	1	1
MORNINGSTAR FOODS, INC. (VELDA, INC.).	WINTER HAVEN	FL	Tampa Bay	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
MORNINGSTAR FOODS, INC. (VELDA, INC.).	MIAMI	FL	Southeast Florida	1	1
PUBLIX SUPER MKTS., INC	DEERFIELD BEACH	FL	Southeast Florida	1	1
PUBLIX SUPER MKTS., INC	LAKELAND	FL	Upper Florida	1	1
SKINNERS DAIRY, INC	JACKSONVILLE	FL	Upper Florida	1	OOB
SUPERBRAND DAIRY PRODUCTS, INC	PLANT CITY	FL	Tampa Bay	1	1
SUPERBRAND DAIRY PRODUCTS, INC	MIAMI	FL	Southeast Florida	1	1
T.G. LEE FOODS, INC	ORLANDO	FL	Tampa Bay	1	1
VELDA FARMS, LP (VELDA, INC.)	ST. PETERSBURG	FL	Tampa Bay	1	1
WIGGINS DAIRY PRODUCTS, INC	PLANT CITY	FL	Tampa Bay	1	1
SOUTHEAST					
ALCORN STATE UNIVERSITY	LORMAN	MS	Southeast	6A	6B
ARKANSAS DEPT. OF CORREC	GRADY	AR	Southeast	6A	6B
AVENT'S DAIRY NC	OXFORD	MS	Southeast	1	1
BAKER & SONS DAIRY, INC	BIRMINGHAM	AL	Southeast	1	OOB
BARBER PURE MILK CO	BIRMINGHAM	AL	Southeast	1	1
BARBER PURE MILK CO	MOBILE	AL	Southeast	1	1
BARBER PURE MILK CO	TUPELO	MS	Southeast	1	OOB
BARBE'S DAIRY, INC	WESTWEGO	LA	Southeast	1	1
BORDEN DAIRY	LITTLE ROCK	AR	Southeast	1	OOB
BORDEN, INC	MONROE	LA	Southeast	1	1
BORDEN, INC	BATON ROUGE	LA	Southeast	1	1
BORDEN, INC	MACON	GA	Southeast	1	OOB
BORDEN, INC	LAFAYETTE	LA	Southeast	1	1
BORDEN, INC	JACKSON	MS	Southeast	1	OOB
BROOKSHIRE DAIRY PRODUCTS	COLUMBUS	MS	Southeast	1	OOB
BROWNS VELVET DY. PRODUCTS (SOUTHERN FOODS GROUP, LP dba BROWN'S VELVET).	NEW ORLEANS	LA	Southeast	1	1
CENTENNIAL FARMS DAIRY, INC	ATLANTA	GA			1 [2]
COLEMAN DAIRY, INC	LITTLE ROCK	AR	Southeast	1	1
COLLEGE OF THE OZARKS	POINT LOOKOUT	MO	Southwest Plains	1	OOB
DAIRY FRESH CORP	COWARTS	AL	Southeast	1	1
DAIRY FRESH CORP	HATTIESBURG	MS	Southeast	1	1
DAIRY FRESH CORP	PRICHARD	AL	Southeast	1	1
DAIRY FRESH OF LA	BAKER	LA	Southeast	1	1
DASI PRODUCTS, INC	DECATUR	AL	Southeast	2	1
ETOWAH MAID DAIRIES, INC	CANTON	GA	Southeast	4	4
FLAV-O-RICH, INC	CANTON	MS	Southeast	1	1
FOREMOST DAIRY, INC	SHREVEPORT	LA	Southeast	1	1
FOREST HILL DAIRY	MEMPHIS	TN	Southeast	1	1
GEORGIA STATE PRISON	REIDSVILLE	GA	Southeast	6A	6B
GOLD STAR DAIRY	LITTLE ROCK	AR	Southeast	1	1
HERITAGE FARMS DAIRY	MURFREESBORO	TN	Southeast	1	1
HERSHEY CHOCOLATE U.S.A	SAVANNAH	GA	Tampa Bay	2	2
HILAND DAIRY CO	FAYETTEVILLE	AR	Southwest Plains	1	1
HILAND DAIRY CO	FORT SMITH	AR	Southwest Plains	1	1
HILAND DAIRY CO	SPRINGFIELD	MO	Southwest Plains	1	1
HUMPHREY DAIRY	HOT SPRINGS	AR	Southeast	3A	3B
KINNETT DAIRIES, INC	COLUMBUS	GA	Southeast	1	1
KLEINPETER DAIRY, INC	BATON ROUGE	LA	Southeast	1	1
LOUISIANA STATE PEN	ANGOLA	LA	Southeast	6A	6B
LOUISIANA TECH	RUSTON	LA	Southeast	6A	6B
LUVEL DAIRY PRODUCTS, INC	KOSCIUSKO	MS	Southeast	1	1
MALONE & HYDE DAIRY/FLEMING COMPANIES, INC.	NASHVILLE	TN	Southeast	1	1
MEADOW GOLD DAIRIES, INC. (TRI-STATE DAIRY).	HUNTSVILLE	AL	Southeast	1	1
MID-AMERICA DAIRYMEN, INC	LEBANON	MO	Southwest Plains	1	2
MISSISSIPPI STATE UNIVERSITY	MISS. STATE	MS	Southeast	6A	6B
NEW ATLANTA DAIRIES, INC	ATLANTA	GA	Southeast	1	1
PEELER JERSEY FARMS, INC	ATHENS	GA	Southeast	1	1
PUBLIX SUPERMARKETS, INC	LAWRENCEVILLE	GA	Southeast	1	1
PURITY DAIRIES, INC	NASHVILLE	TN	Southeast	1	1
RYAN MILK COMPANY	MURRAY	KY	Southeast	2	1
SOUTHERN UNIVERSITY	BATON ROUGE	LA	Southeast	6A	6B
SUPERBRAND DY. PRODUCTS, INC	MONTGOMERY	AL	Southeast	1	1
SUPERBRAND DY. PRODS., INC	HAMMOND	LA	Southeast	1	1
TURNER DAIRIES, INC	COVINGTON	TN	Southeast	1	1
TURNER DAIRIES, INC	FULTON	KY	Southeast	1	1
MIDEAST					
ALBERT MIHALY AND SON DAIRY	LOWELLVILLE	OH	E Ohio-W Penn	4	4
ARPS DAIRY, INC	DEFIANCE	OH	Ohio Valley	1	1
BAREMAN DAIRY, INC	HOLLAND	MI	Southern Michigan	1	1
BARKER'S FARM DAIRY, INC	PECKS MILL	WV	Ohio Valley	4	4
BORDEN, INC	YOUNGSTOWN	OH	E Ohio-W Penn	1	OOB
BROUGHTON FOODS CO	MARIETTA	OH	Ohio Valley	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
BRUNTON DAIRY	ALIQUIPPA	PA	E Ohio-W Penn	4	4
BURGER DAIRY CO	NEW PARIS	IN	Indiana	1	1
BURGER, C.F., CREAMERY, INC	DETROIT	MI	Southern Michigan	2	2
CALDER BROTHERS DAIRY	LINCOLN PARK	MI	Southern Michigan	1	1
COLTERYAHN DAIRY, INC	PITTSBURGH	PA	E Ohio-W Penn	1	1
CON-SUN FOOD INDUSTRIES, INC.	ELYRIA	OH	E Ohio-W Penn	1	1
COOK'S FARM DAIRY, INC	ORTONVILLE	MI	Southern Michigan	4	4
COUNTRY DAIRY	NEW ERA	MI	Southern Michigan	4	4
COUNTY FRESH, INC	GRAND RAPIDS	MI	Southern Michigan	1	1
CROOKED CREEK FARM DAIRY	ROMEO	MI	Southern Michigan	4	4
DEAN DAIRY PRODUCTS CO	SHARPSVILLE	PA	E Ohio-W Penn	1	1
DEAN FOODS COMPANY	ROCHESTER	IN	Indiana	1	1
DIXIE DAIRY CO	GARY	IN	Indiana	1	1
EASTSIDE JERSEY DAIRY, INC	ANDERSON	IN	Indiana	1	1
ELMVIEW DAIRY	COLUMBUS	PA	E Ohio-W Penn	4	4
EMBEST, INC	LIVONIA	MI	Southern Michigan	1	1
FIKE, R BRUCE & SONS DAIRY	UNIONTOWN	PA	E Ohio-W Penn	1	1
FISHER'S DAIRY, R.V. FISHER	PORTERSVILLE	PA	E Ohio-W Penn	4	4
FLEMINGS DAIRY	UTICA	OH	Ohio Valley	1	1
GALLIKER DAIRY CO	JOHNSTOWN	PA	E Ohio-W Penn	2	2
GLEN EDEN FARM-DIANNE TEETS	ROCHESTER	PA	E Ohio-W Penn	4	4
GOSHEN DAIRY COMPANY	NEW PHILADELPHIA	OH	E Ohio-W Penn	1	1
GREEN VALE FARM	COOPERSVILLE	MI	Southern Michigan	4	4
GREEN VALLEY DAIRY	GEORGETOWN	PA	E Ohio-W Penn	4	4
GUERNSEY FARMS DAIRY	NORTHVILLE	MI	Southern Michigan	1	1
HARTZLER FAMILY DAIRY	WOOSTER	OH	3B	[2]	
HILLSIDE DAIRY CO	CLEVELAND HGHTS	OH	E Ohio-W Penn	1	1
HUTTER FARM DAIRY	MT. PLEASANT	PA	E Ohio-W Penn	4	4
INVERNESS DAIRY, INC	CHEBOYGAN	MI	Michigan U P	1	1
JACKSON ALL STAR DAIRY	JACKSON	MI	Southern Michigan	1	OOB
JACKSON FARMS	NEW SALEM	PA	E Ohio-W Penn	4	4
JILBERT DAIRY, INC	MARQUETTE	MI	Michigan U P	1	1
JOHNSON'S DAIRY, INC	ASHLAND	KY	Ohio Valley	1	1
KERBER'S DAIRY	N. HUNTINGDON	PA	E Ohio-W Penn	1	3B
KROGER COMPANY, THE	INDIANAPOLIS	IN	Indiana	1	1
LANSING DAIRY, INC. (MELODY FARMS, INC.).	LANSING	MI	Southern Michigan	1	1
LIBERTY DAIRY CO	EVART	MI	Southern Michigan	1	1
LONDON'S FARM DAIRY, INC	PORT HURON	MI	Southern Michigan	1	1
MAPLEHURST FARMS, INC	INDIANAPOLIS	IN	Indiana	1	1
MARBURGER FARM DAIRY, INC	EVANS CITY	PA	E Ohio-W Penn	1	1
MCDONALD DAIRY COMPANY	FLINT	MI	Southern Michigan	1	1
MCMAHONS DAIRY, INC	ALTOONA	PA		5	5
MEADOW BROOK DAIRY	ERIE	PA	E Ohio-W Penn	1	1
MEYER H & SONS DAIRY	CINCINNATI	OH	Ohio Valley	1	1
MICHIGAN DAIRY	LIVONIA	MI	Southern Michigan	1	1
MILLER CORPORATION	CAMBRIDGE CITY	IN	Indiana	1	OOB
MONG DAIRY CO	SENECA	PA	E Ohio-W Penn	1	OOB
MURPHY'S DAIRY	JAMESTOWN	PA	E Ohio-W Penn	4	OOB
NICOL'S FARM DAIRY	BEAVER	PA	E Ohio-W Penn	4	OOB
OBERLIN FARMS DAIRY, INC	CLEVELAND	OH	E Ohio-W Penn	1	1
OSBORN DAIRY	SAULT STE MARIE	MI	Michigan U P	4	4
PLEASANT VIEW DAIRY CORP	HIGHLAND	IN	Indiana	1	1
PRAIRIE FARMS DAIRY, INC	FT. WAYNE	IN	Indiana	1	1
QUALITY CREAMERY, INC	COMSTOCK PARK	MI	Southern Michigan	1	1
QUALITY DAIRY CO B.T.U	LANSING	MI	Southern Michigan	1	1
RAEMELTON FARM DAIRY	MANSFIELD	OH	Ohio Valley	4	OOB
REITER DAIRY CO	SPRINGFIELD	OH	Ohio Valley	1	1
REITER DAIRY, INC	AKRON	OH	E Ohio-W Penn	1	1
ROELOF DAIRY	GALESBURG	MI	Southern Michigan	1	1
SANI DAIRY	JOHNSTOWN	PA	E Ohio-W Penn	2	2
SCHENKEL'S ALL-STAR DAIRY, INC	HUNTINGTON	IN	Indiana	1	1
SCHIEVER FARM DAIRY	HARMONY	PA	E Ohio-W Penn	1	3B
SCHNEIDERS DAIRY, INC	PITTSBURGH	PA	E Ohio-W Penn	1	1
SMITH DAIRY PRODUCTS CO	ORRVILLE	OH	Ohio Valley	1	1
SMITH'S DAIRY PRODUCTS CO	RICHMOND	IN	Ohio Valley	1	1
STERLING MILK CO	WAUSEON	OH	Ohio Valley	1	1
SUPERIOR DAIRIES, INC	SAGINAW	MI	Southern Michigan	1	1
SUPERIOR DAIRY, INC	CANTON	OH	E Ohio-W Penn	1	1
TAMARACK FARMS	NEWARK	OH	Ohio Valley	1	1
TAYLOR MILK CO., INC	AMBRIDGE	PA	E Ohio-W Penn	1	1
THE SPRINGHOUSE	EIGHTY FOUR	PA	E Ohio-W Penn	4	4
TOFT DAIRY INC	SANDUSKY	OH	Ohio Valley	2	1
TOLEDO MILK PROCESSING, INC. (COUNTRY FRESH OF OHIO).	MAUMEE	OH	Ohio Valley	1	1
TRAUTH, LOUIS DAIRY	NEWPORT	KY	Ohio Valley	1	1
TURNER DAIRY FARMS, INC	PITTSBURGH	PA	E Ohio-W Penn	1	1
UNITED DAIRY FARMERS	CINCINNATI	OH	Ohio Valley	1	1
UNITED DAIRY, INC	MARTINS FERRY	OH	E Ohio-W Penn	1	1
UNITED DAIRY, INC	CHARLESTON	WV	Ohio Valley	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
VALEWOOD FARMS	CRESSON	PA		5	5
VALLEY RICH DAIRY	ROANOKE	VA	Ohio Valley	2	2
WEST VIRGINIA UNIVERSITY DAIRY	MORGANTOWN	WV	E Ohio-W Penn	4	OOB
WHITE KNIGHT PACKAGING CORP. (PARMALAT WHITE KNIGHT PACKAGING CORP.).	WYOMING	MI	Southern Michigan	1	1
YOUNG'S JERSEY DAIRY, INC	YELLOW SPRINGS	OH	Ohio Valley	4	4
UPPER MIDWEST					
ASSOC. MILK PRODUCERS, INC. (FOREMOST FARMS COOPERATIVE).	DEPERE	WI	Chicago Regional	1	1
AYSTA DAIRY, INC	VIRGINIA	MN	Upper Midwest	1	1
CASS-CLAY CREAMERY, INC	GRAND FORKS	ND	Upper Midwest	1	1
CASS-CLAY CREAMERY, INC	FARGO	ND	Upper Midwest	1	1
CASS-CLAY CREAMERY, INC	MANDAN	ND	Upper Midwest	2	2
CENTRAL MINNESOTA	SAUK CENTRE	MN	Upper Midwest	1	1
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	BISMARCK	ND	Upper Midwest	2	2
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	THIEF RIVER	MN	Upper Midwest	1	1
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	WOODBURY	MN	Upper Midwest	1	1
DEAN FOODS CO	HUNTLEY	IL	Chicago Regional	1	1
DEAN FOODS CO	HARVARD	IL	Chicago Regional	1	1
FOREMOST FARMS USA	WAUKESHA	WI	Chicago Regional	1	1
FOREMOST FARMS USA	WAUSAU	WI	Chicago Regional	1	1
FRANKLIN FOODS	DULUTH	MN	Upper Midwest	1	1
HANSENS DAIRY, INC	GREEN BAY	WI	Chicago Regional	2	1
HASTINGS COOPERATIVE	HASTINGS	MN	Upper Midwest	1	1
KOHLER MIX SPECIALITIES, INC	WHITE BEAR	MN	Upper Midwest	2	2
KWIK TRIP DAIRY	LA CROSSE	WI	Chicago Regional	1	1
LAMERS DAIRY, INC	KIMBERLY	WI	Chicago Regional	2	1
LIFEWAY FOODS, INC	SKOKIE	IL	Chicago Regional	2	1
MARIGOLD FOODS, INC	ROCHESTER	MN	Upper Midwest	1	1
MARIGOLD FOODS, INC	CEDARBURG	WI	Chicago Regional	1	1
MARIGOLD FOODS, INC	MINNEAPOLIS	MN	Upper Midwest	1	1
MEYER BROTHERS DAIRY	WAYZATA	MN	Upper Midwest	1	1
MULLER-PINEHURST, INC	ROCKFORD	IL	Chicago Regional	1	1
NORTH BRANCH DAIRY, INC	NORTH BRANCH	MN	Upper Midwest	1	1
OAK GROVE DAIRY	NORWOOD	MN	Upper Midwest	1	1
OBERWEIS DAIRY, INC	AURORA	IL	Chicago Regional	1	1
POLLARD DAIRY, INC	NORWAY	MI	Michigan U P	1	1
ROCK I FARMS	OSWEGO	IL	Chicago Regional	4	4
SCHROEDER MILK CO., INC	ST PAUL	MN	Upper Midwest	1	1
STAR SPECIALTY FOODS, INC. (MORNINGSTAR FOODS, INC.).	MADISON	WI	Chicago Regional	1	2
STOER DAIRY FARMS, INC	TWO RIVERS	WI	Chicago Regional	4	OOB
SWISS VALLEY FARMS CO	CHICAGO	IL	Chicago Regional	1	1
TETZNER DAIRY	WASHBURN	WI	Upper Midwest	4	4
UNITED WORLD IMPORTS	CHICAGO	IL	Chicago Regional	2	5
VERIFINE DAIRY PRODUCTS CO	SHEBOYGAN	WI	Chicago Regional	1	1
WEBERS, INC	MARSHFIELD	WI		5	3B
CENTRAL					
ANDERSON-ERICKSON DAIRY CO	DES MOINES	IA	Iowa	1	1
ASHER DAIRY	MARCELINE	MO		4	4
BAKER'S DAIRY COMPANY	MOLINE	IL	Iowa	1	OOB
BRAUM'S ICE CREAM AND DAIRY (W.H. BRAUM, INC.).	TUTTLE	OK	Southwest Plains	1	1
CENTRAL DAIRY & ICE CREAM	JEFFERSON CITY	MO		5	5
CHESTER DAIRY CO	CHESTER	IL	S Ill-E Missouri	1	1
COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.).	SIOUX FALLS	SD	E South Dakota	1	1
DAIRY GOLD FOODS CO	CHEYENNE	WY		5	1
DEPT. OF CORRECTIONS	CANON CITY	CO	Eastern Colorado	6A	6B
DILLON DAIRY CO	DENVER	CO	Eastern Colorado	1	1
ELDON MOSS	IOWA CITY	IA	Iowa	4	4
FARM FRESH DAIRY, INC	CHANDLER	OK	Southwest Plains	1	1
GALESBURG CORR. CENTER	GALESBURG	IL	Central Illinois	6A	6B
GILLETTE DAIRY OF BLACK HILLS	RAPID CITY	SD	Black Hills	1	2
GRAVES GRADE A DAIRY	BELLVUE	CO	Eastern Colorado	4	4
HILAND DAIRY CO	NORMAN	OK	Southwest Plains	1	1
HILAND DAIRY CO	WICHITA	KS	Southwest Plains	1	1
JACKSON ICE CREAM CO	HUTCHINSON	KS	Southwest Plains	1	1
KANSAS STATE UNIV	MANHATTAN	KS	Greater Kansas City	6A	6B
KARL'S FARM DAIRY, INC	EASTLAKE	CO	Eastern Colorado	4	4
LAESCH DAIRY CO	BLOOMINGTON	IL	S Ill-E Missouri	1	1
LAND-O-SUN DAIRIES, INC	O'FALLON	IL	S Ill-E Missouri	1	1
LENZ DAIRY	PRAIRIE HOME	MO	Greater Kansas City	4	4

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
LONGMONT DAIRY FARM	LONGMONT	CO	Eastern Colorado	4	4
LOWELL-PAUL DAIRY, INC	GREELEY	CO	Eastern Colorado	4	4
MEADOW GOLD DAIRIES, INC	GREELEY	CO	Eastern Colorado	1	1
MEADOW GOLD DAIRIES, INC	ENGLEWOOD	CO	Eastern Colorado	1	1
MEADOW GOLD DAIRIES, INC. (MODERN DAIRY OF CHAMPAIGN, INC.).	CHAMPAIGN	IL	S Ill-E Missouri	1	OOB
MEADOW GOLD DAIRIES, INC. (MODERN DAIRY OF CHAMPAIGN, INC.).	TULSA	OK	Southwest Plains	1	OOB
MEADOW GOLD DAIRY, INC	LINCOLN	NE	Nebraska-W Iowa	1	1
MID-STATES DAIRY COMPANY	HAZELWOOD	MO	SIll-E Missouri	1	1
PATKE FARM DAIRY	WASHINGTON	MO	SIll-E Missouri	1	3B
PEVELY DAIRY CO	ST LOUIS	MO	SIll-E Missouri	1	1
PRAIRIE FARM DAIRIES, INC	CARLINVILLE	IL	SIll-E Missouri	1	1
PRAIRIE FARMS DAIRY, INC	GRANITE CITY	IL	SIll-E Missouri	1	1
PRAIRIE FARMS DAIRY, INC	OLNEY	IL	SIll-E Missouri	1	1
PRAIRIE FARMS DAIRY, INC	PEORIA	IL	Central Illinois	1	1
PRAIRIE FARMS DAIRY	QUINCY	IL	SIll-E Missouri	1	1
RADIANCE DAIRY	FAIRFIELD	IA	Iowa	4	4
ROBERTS DAIRY CO	DES MOINES	IA	Iowa	1	1
ROBERTS DAIRY CO	IOWA CITY	IA	Iowa	1	1
ROBERTS DAIRY CO. (FAIRMONT-ZARDA DAIRY, DIVISION OF ROBERTS DAIRY CO.).	KANSAS CITY	MO	Greater Kansas City	1	1
ROBERTS DAIRY CO	OMAHA	NE	Nebraska-W Iowa	1	1
ROBINSON DAIRY, INC	DENVER	CO	Eastern Colorado	1	1
ROYAL CREST DAIRY, INC	DENVER	CO	Eastern Colorado	1	1
SAFEWAY STORES, INC., MK PLNT	DENVER	CO	Eastern Colorado	1	1
SCHRANT ROADSIDE DAIRY (ROADSIDE DAIRY).	WINSIDE	NE	Nebraska-W Iowa	4	4
SHOENBERG FARMS, INC	ARVADA	CO	Eastern Colorado	1	1
SINTON DAIRY FOODS CO., LLC	COLORADO SPRINGS	CO	Eastern Colorado	1	1
SOUTH DAKOTA STATE UNIV	BROOKINGS	SD	E South Dakota	6A	6B
SWAN BROS. DAIRY, INC	CLAREMORE	OK	Southwest Plains	4	4
SWISS VALLEY FARMS CO	CEDAR RAPIDS	IA	Iowa	1	3B
SWISS VALLEY FARMS CO	DUBUQUE	IA	Iowa	1	1
TEGELERS DAIRY	DYERSVILLE	IA	Iowa	1	OOB
WELLS DAIRY, INC	LE MARS	IA	Nebraska-W Iowa	1	1
WELLS DAIRY, INC	OMAHA	NE	Nebraska-W Iowa	1	1
WESTERN DAIRYMEN COOP, INC	RIVERTON	WY	Eastern Colorado	2	2
WILD'S BROTHER'S DAIRY	EL RENO	OK	Southwest Plains	4	4
SOUTHWEST					
BELL DAIRY PRODUCTS, INC	LUBBOCK	TX	New Mex-W Texas	1	1
BORDEN, INC	CORPUS CHRISTI	TX	Texas	1	OOB
BORDEN, INC	EL PASO	TX	New Mex-W Texas	1	1
BORDEN, INC	DALLAS	TX	Texas	1	1
BORDEN, INC	ALBUQUERQUE	NM	New Mex-W Texas	1	1
BORDEN, INC	LUBBOCK	TX	New Mex-W Texas	1	OOB
BORDEN, INC	CONROE	TX	Texas	1	1
CREAMLAND DAIRIES	ALBUQUERQUE	NM	New Mex-W Texas	1	1
DAVID'S SUPERMARKETS, INC	GRANDVIEW	TX	Texas	1	1
DEAN DAIRY PRODUCTS	CLOVIS	NM	New Mex-W Texas	1	OOB
FARMERS DAIRIES	EL PASO	TX	New Mex-W Texas	1	1
HOBBS DRIVE IN DAIRY	HOBBS	NM	New Mex-W Texas	3A	3B
HYGEIA DAIRY	CORPUS CHRISTI	TX	Texas	1	1
H. E. BUTT GROCERY CO	HOUSTON	TX	Texas	1	1
H. E. BUTT GROCERY CO	SAN ANTONIO	TX	Texas	1	1
JERSEYLAND	DECATUR	TX	Texas	4	OOB
LAND O' PINES	LUFKIN	TX	Texas	1	1
LANE'S DAIRY	EL PASO	TX	New Mex-W Texas	4	4
LILLY DAIRY PRODUCTS, INC	BYRAN	TX	Texas	1	1
LOS LUNAS PRISON DAIRY	ALBUQUERQUE	NM	New Mex-W Texas	3A	3B
MICKEY'S DRIVE IN DAIRY	ALBUQUERQUE	NM	New Mex-W Texas	4	4
MIDWEST MIX CO	SULPHUR SPRINGS	TX			2 [2]
MORNINGSTAR SPECIALTY	SULPHUR SPRINGS	TX	Chicago Regional	1	2
MOUNTAIN GOLD DAIRY	CARRIZOZO	NM	New Mex-W Texas	3A	3B
NATURE'S DAIRY, INC	ROSWELL	NM	New Mex-W Texas	4	4
OAK FARMS DAIRIES	HOUSTON	TX	Texas	1	1
OAK FARMS DAIRIES	SAN ANTONIO	TX	Texas	1	1
OAK FARMS DAIRIES	DALLAS	TX	Texas	1	1
PLAINS CREAMERY	AMARILLO	TX	New Mex-W Texas	1	1
PRICES CREAMERY, INC	EL PASO	TX	New Mex-W Texas	1	1
PROMISED LAND DAIRY	FLORESVILLE	TX			4 [2]
PURE MILK CO (OAK FARMS DAIRY)	WACO	TX	Texas	4	4
RANCHO LAS LAGUNAS	SANTA FE	NM	New Mex-W Texas	4	4
RASBAND DAIRY	ALBUQUERQUE	NM	New Mex-W Texas	4	4
SCHEPPS DAIRY, INC	DALLAS	TX	Texas	1	1
SOUTHWEST DAIRY	TYLER	TX	Texas	1	1
SUPERBRAND DAIRY PRODS, INC	FT WORTH	TX	Texas	1	1
SUPERIOR DAIRIES (BORDEN, INC.)	AUSTIN	TX	Texas	1	1

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
VANDERVOORTS DAIRY	FT WORTH	TX	Texas	1	1
ARIZONA-LAS VEGAS					
ANDERSON DAIRY, INC	LAS VEGAS	NV	Great Basin	1	1
ETHINGTON DAIRY	GILBERT	AZ	Central Arizona	4	OOB
GOLDEN WEST DAIRIES	WELLTON	AZ	Central Arizona	4	4
HEIN & ELLEN HETTINGA	YUMA	AZ	Central Arizona	4	4
JACKSON ICE CREAM CO., INC	PHOENIX	AZ	Central Arizona	1	1
MEADOWWAYNE DAIRY	COLORADO CITY	AZ	Central Arizona	4	4
SAFEWAY STORES, INC	TEMPE	AZ	Central Arizona	1	1
SHAMROCK FOODS, INC	PHOENIX	AZ	Central Arizona	1	1
SMITH'S FOOD & DRUG CENTERS, INC	TOLLESON	AZ	Central Arizona	1	1
SUNRISE DAIRY	TAYLOR	AZ		5	3B
SUNSTREET DAIRY, INC	PHOENIX	AZ	Central Arizona	1	OOB
WESTERN					
BROWN DAIRY, INC	COALVILLE	UT	Great Basin	4	4
CHURCH OF JESUS CHRIST OF LATTER-DAY.	OGDEN	UT	Great Basin	3A	6B
CHURCH OF JESUS CHRIST OF LATTER-DAY.	SALT LAKE CITY	UT	Great Basin	3A	6B
COUNTRY BOY DAIRY	OGDEN	UT	Great Basin	4	4
CREAM O'WEBER DAIRY, INC	SALT LAKE CITY	UT	Great Basin	1	1
DALE BARKER	MOUNT PLEASANT	UT	Great Basin	4	4
DARIGOLD, INC	BOISE	ID	SW Idaho-E Oregon	1	1
DESERET MILK PLANT	SALT LAKE CITY	UT	Great Basin	3A	6B
FARM FRESH	SALEM	UT	Great Basin	4	4
GOSSNER FOODS, INC	LOGAN	UT	Great Basin	1	1
GRAFF DAIRY	GRAND JCT	CO	W Colorado	1	3B
IDEAL DAIRY, INC	RICHFIELD	UT	Great Basin	4	4
JOHNNY'S DAIRY	SOUTH WEBER	UT	Great Basin	4	4
JONES DAIRY & HEALTH FOODS	TAYLORSVILLE	UT	Great Basin	4	4
KDK, INC	DRAPER	UT	Great Basin	1	1
MEADOW GOLD DAIRIES, INC	POCATELLO	ID	Great Basin	1	1
MEADOW GOLD DAIRIES, INC	DELTA	CO	W Colorado	1	1
MEADOW GOLD DAIRIES, INC	BOISE	ID	SW Idaho-E Oregon	1	1
MEADOW GOLD DAIRIES, INC	SALT LAKE CITY	UT	Great Basin	1	1
REEDER SHADY BROOK DAIRY	BRIGHAM CITY	UT	Great Basin	4	OOB
REED'S DAIRY, INC	IDAHO FALLS	ID	Great Basin	4	4
ROSEHILL DAIRY	MORGAN	UT	Great Basin	4	4
SMITH FOOD&DRUG CENTERS, INC	LAYTON	UT	Great Basin	1	1
SMITH'S DAIRY	BUHL	ID	SW Idaho-E Oregon	1	3B
STOKER WHOLESALE, INC	BURLEY	ID	SW Idaho-E Oregon	1	1
UTAH STATE UNIVERSITY	LOGAN	UT	Great Basin	3A	6B
VALLEY DAIRY, INC	YERINGTON	NV		5	3B
WESTERN QUALITY FOOD PRODUCTS	CEDAR CITY	UT	Great Basin	2	2
WINDER DAIRY	SALT LAKE CITY	UT	Great Basin	1	1
PACIFIC NORTHWEST					
ALLISON HARDY	ELMA	WA	Pacific Northwest	4	4
ALPENROSE DAIRY	PORTLAND	OR	Pacific Northwest	1	1
ANDERSEN DAIRY, INC	BATTLE GROUND	WA	Pacific Northwest	1	1
BILLANJO DAIRY	EAGLE POINT	OR	Pacific Northwest	4	OOB
CAL-WASH INVESTMENTS, INC	COLLEGE PLACE	WA	Pacific Northwest	1	OOB
CURLY'S DAIRY, INC	SALEM	OR	Pacific Northwest	1	1
DARIGOLD, INC	MEDFORD	OR	Pacific Northwest	1	1
DARIGOLD, INC	SPOKANE	WA	Pacific Northwest	1	1
DARIGOLD, INC	PORTLAND	OR	Pacific Northwest	1	1
DARIGOLD, INC	SEATTLE	WA	Pacific Northwest	1	1
DEPT. OF CORRECTIONS STATE OF OREGON.	SALEM	OR	Pacific Northwest	1	3B
EBERHARD CREAMERY, INC	REDMOND	OR	Pacific Northwest	1	1
ECHO SPRING DAIRY, INC	EUGENE	OR	Pacific Northwest	1	1
EDWARD & AILEEN BRANDSMA	LYNDEN	WA	Pacific Northwest	4	4
EVERGREEN DAIRY, INC. (WEIKS)	OLYMPIA	WA	Pacific Northwest	4	4
FAITH DAIRY, INC	TACOMA	WA	Pacific Northwest	4	4
FOREMAN'S DAIRY	GRANTS PASS	OR	Pacific Northwest	4	OOB
FRED MEYER, INC	PORTLAND	OR	Pacific Northwest	1	1
GARY & MARGO WINEGAR	ELLENSBURG	WA	Pacific Northwest	1	3B
GERALD GILBERT, ET AL	OTHELLO	WA	Pacific Northwest	4	4
GRAAFSTRA DAIRY, INC	ARLINGTON	WA	Pacific Northwest	4	4
INLAND NORTHWEST DAIRIES, INC	SPOKANE	WA	Pacific Northwest	1	1
LOCHMEAD FARMS, INC	JUNCTION CITY	OR	Pacific Northwest	4	4
MALLORIE'S DAIRY, INC	SILVERTON	OR	Pacific Northwest	4	4
MIKE HARVEY	VANCOUVER	WA	Pacific Northwest	4	4
PACIFIC FOODS OF OREGON, INC	CLACKAMAS	OR	Pacific Northwest	1	3B
PALMER ZOTTOLA	GRANTS PASS	OR	Pacific Northwest	1	1
RICHARD AND LINDA KLINE	CHEWELAH	WA	Pacific Northwest	4	OOB

LIST OF PLANTS AND REGULATORY STATUS—Continued

Plant name	City	State	October 1995 order	Status [1]	Expected status [1]
ROY KROPF	HALSEY	OR	Pacific Northwest	4	4
SAFEWAY '85, INC	MOSES LAKE	WA	Pacific Northwest	1	1
SAFEWAY STORES, INC	CLACKAMAS	OR	Pacific Northwest	1	1
SAFEWAY STORES, INC	BELLEVUE	WA	Pacific Northwest	1	1
SMITH BROTHERS FARMS, INC	KENT	WA	Pacific Northwest	4	4
SPRINGFIELD CREAMERY	EUGENE	OR		5	1
STATE OF WASHINGTON	MONROE	WA	Pacific Northwest	4	4
SUNSHINE DAIRY, INC	PORTLAND	OR	Pacific Northwest	1	1
TILLAMOOK COUNTY CREAMERY ASSN.	TILLAMOOK	OR	Pacific Northwest	1	2
UMPQUA DAIRY PRODUCTS CO	ROSEBURG	OR	Pacific Northwest	1	1
VITAMILK DAIRY, INC	SEATTLE	WA	Pacific Northwest	1	1
WALTER DE JONG	MONROE	WA	Pacific Northwest	4	4
WAYNE STRATTON	PULLMAN	WA	Pacific Northwest	4	4
WILCOX FARMS, INC	CHENEY	WA			1 [2]
WILCOX FARMS, INC	ROY	WA	Pacific Northwest	1	1
WILLIAM VENN (TIMOTHY BERNDT)	NORTH BEND	WA	Pacific Northwest	4	4

[1] DISTRIBUTING PLANT STATUS:
1: POOL
2: PARTIALLY REGULATED
3: EXEMPT BASED ON SIZE:
A. AS DEFINED UNDER CURRENT FEDERAL ORDERS
B. AS DEFINED UNDER PROPOSED RULE; WITH ROUTE DISPOSITION LESS THAN 150,000 LBS. PER MONTH.
4: PRODUCER-HANDLER
5: UNREGULATED
6: EXEMPT BASED ON INSTITUTIONAL STATUS:
A. AS DEFINED UNDER CURRENT FEDERAL ORDERS
B. AS DEFINED UNDER PROPOSED ORDERS (GOVERNMENT, UNIVERSITY, AND CHARITABLE)
[2] NEW SINCE OCT. 95: INFORMATION NOT INCLUDED IN ANALYSIS.

2. Basic Formula Price Replacement and Other Class Price Issues

This proposed rule would replace the basic formula price (BFP) with a multiple component pricing system that would determine butterfat prices for milk used in Class II, Class III and Class IV products from a butter price; protein and other solids prices for milk used in Class III products from cheese and whey prices; and nonfat solids prices for milk used in Class IV products from nonfat dry milk product prices. Prices for Class I and Class II would be determined on the basis of skim milk prices for Class III and Class IV, computed from the respective component prices. A Class I skim milk price for each order would be determined by computing a six month declining average of the higher of the Class III or Class IV skim milk prices for the second preceding month and adding a fixed Class I differential to the result. The Class I butterfat price would be determined by adding the fixed Class I differential to the six month declining average of the butterfat price used for Class II, Class III and IV butterfat for the second preceding month. The Class II skim milk price, on a current month basis, would be computed by adding $0.70 to the Class IV skim milk price. A table showing current and proposed prices for the period 1994 through 1997 appears at the end of this discussion of the proposed BFP replacement.

Provisions for Federal milk orders regulating the handling of milk in areas for which no support for a multiple component pricing system has been expressed would maintain a hundredweight skim/butterfat pricing system instead of the component pricing plan. The hundredweight prices would be determined by using the component price formulas contained in this decision and computing an appropriate hundredweight price using standard component levels. In addition, the proposed Mideast order area, for which a multiple component pricing plan similar to that now in effect in the Southern Michigan order has been supported (containing a ''fluid carrier'' component instead of an ''other solids'' component), would be modified to incorporate such provisions.

Background

In the early years of the Federal milk order program, prices that served the function of the present BFP were determined primarily from evaporated milk prices or condensery pay prices. Some markets developed formulas to determine the basic price for milk used in manufactured products and fluid milk prices. These, however, did not always reflect the actual relationship between supply and demand. Furthermore, when adjacent markets priced milk using different formulas, price disparities occurred between competing handlers regulated under different orders.

The Minnesota-Wisconsin manufacturing grade milk price series (M–W) was adopted in the early 1960s. The M–W was a competitive pay price obtained from a survey of payments made by manufacturing plants in Minnesota and Wisconsin to producers of Grade B (manufacturing grade) milk. Approximately 50 percent of total U.S. Grade B milk marketings were accounted for by these two states when the M–W was adopted. The base month M–W was updated using a second survey of a sub-sample of the plants in the base month survey. This sub-sample of plants reported pay prices for the first half, and an estimate of pay prices for the last half, of the month following the base month.

Over time the production of Grade B milk has declined steadily. In 1970, 46 percent of Wisconsin milk marketings and 71 percent of Minnesota milk marketings were Grade B. By 1989, these shares had declined to 17 and 26 percent, respectively. Around this time (1989) USDA's National Agricultural Statistics Service (NASS), which conducts the survey, considered the number of plants eligible for the smaller updating survey to be too few to be statistically reliable as an indicator of the value of milk.

Therefore, in June of 1992, a national hearing was held to consider changes to the M–W price series. The result was the current BFP, which replaced the M–W in 1995. The current BFP uses the same base month competitive pay price as the M–W, but updates the base month price with a formula that uses changes from the base month to the next month in prices paid for butter, nonfat dry milk, and cheese. An updating process

is necessary to attempt to capture current supply and demand conditions, since the base month survey price is not available until a month after the milk has already been marketed.

The problem of using a declining volume of Grade B milk to accurately represent the value of milk used for manufacturing was not solved with the implementation of the current BFP. By 1995, the percentage of milk marketed as Grade B milk had fallen to 8 percent of total Wisconsin marketings and 11 percent of total Minnesota marketings. Nationally, Grade B milk constituted less than 5 percent of total U.S. milk marketings in 1995, compared with 9 percent in 1989—a decline of 45 percent. Minnesota and Wisconsin accounted for 2.9 billion pounds, or about 42 percent of the national Grade B milk marketed in 1995; but this was less than 2 percent of all milk marketed in the U.S. that year. In fact the decision based on the basic formula price hearing recognized 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.''

The 1996 Farm Bill, enacted in early April 1996, requires consolidation of the Federal milk marketing orders into between 10 and 14 orders, and, among other provisions, authorizes the Secretary to implement the use of uniform multiple component pricing when developing one or more basic formula prices for manufacturing milk. As part of the process of implementing the provisions of the Farm Bill, several committees were formed to deal with specific issues involved in restructuring the Federal milk order system, and public comments were requested.

Basic Formula Price Replacement Committee

One of the committees formed to assist in the restructuring process was the Basic Formula Price Replacement Committee. This committee hosted a public forum on dairy price discovery techniques in Madison, Wisconsin, in late July 1996, considered numerous comments submitted by interested persons, established criteria for a new BFP, conducted extensive study and analysis, and issued a preliminary report on BFP replacement in April 1997. The report generated additional comments, and the committee studied, incorporated, and developed responses to these comments, as well as those received earlier, in the development of this proposed new basic formula price.

The Committee began with a set of goals to be met by a replacement for the basic formula price. These goals are: (a) the replacement must meet the supply and demand criteria set forth in the Agricultural Marketing Agreement Act of 1937 (the Act), (b) the replacement price should not deviate greatly from the general level of the current BFP, and (c) the replacement should demonstrate the ability to change in reaction to changes in supply and demand.

To achieve the basic goals of BFP replacement, a set of criteria was established to evaluate the various alternatives. The criteria were: (a) stability and predictability; (b) simplicity, uniformity, and transparency; (c) sound economics—e.g., consistency with market conditions; and (d) reduced regulation.

Stability refers to a moderation of month-to-month fluctuations in the basic formula price. A price that fluctuates less than the current BFP would improve the wholesale and retail pricing structure in the industry and facilitate an improved planning horizon for both producers and processors. A predictable basic formula price would allow the industry to improve long-range planning, thereby contributing to economic efficiency.

The new basic formula price should be simple to derive and easy for the dairy industry to understand, since it would be used in all Federal milk orders. The BFP also should be transparent. That is, it should be possible to see and understand the derivation of the BFP, even if a complex formula is used to determine the price. Further, the new basic formula price should be applied uniformly within orders and on a national basis.

The most important criterion is sound economics—the ability of the BFP to reflect the supply and demand for raw milk. Currently, the BFP is intended to represent the interaction of supply and demand for manufacturing milk and thereby, the supply and demand for fluid milk at a minimum level. A replacement that fits this traditional role suggests that the supply and demand for manufacturing milk should be reflected in the new price.

Sound economics also implies that minimum prices for milk used in manufactured products will be market-clearing. The use of two classes to price milk used in traditional ''surplus'' products of butter, nonfat dry milk, and cheese (that is, milk in excess of that amount needed to fill fluid demand), helps assure that only one product will have to be priced at a level that clears the market. The market-clearing product in most cases is butter/nonfat dry milk.

The criterion of sound economics is sufficiently important that it may override other criteria. For instance, supply and demand factors that result in significant price fluctuations may come at the expense of stability; simplicity may conflict with the need to incorporate important supply and demand factors reflecting market conditions for milk. A degree of complexity may be necessary to accommodate sound economics.

Finally, reduced regulation is a desirable trait of a new basic formula price, to the extent that it does not come at the expense of sound economics. One function of the BFP is to represent a market-clearing price for milk used in manufactured dairy products. Reducing regulation should be attempted while discovering such a price, but the goal of reduced regulation is of less importance than accurately reflecting the market forces of supply and demand.

A replacement for the BFP could affect regulation in two ways. In reporting price information to determine the basic formula price, many plants currently report payroll information on a monthly basis. A revised method for determining the BFP could entail reporting manufactured product transaction prices, manufacturing costs and yields, and additional auditing to assure data accuracy. Second, a system of pricing milk used in manufactured dairy products based on components might require increased reporting and accounting to determine component usage.

University Study Committee

In recognition of the expertise available within the academic community, a University Study Committee (USC) was commissioned to conduct objective analyses of the performance of numerous alternatives to the current basic formula price. The ten members of the USC represent six land grant universities around the country.

The USC established its own criteria for screening potential replacements for the basic formula price. Alternatives that met the USC's threshold criteria were then subjected to further analysis. The USC's first level criteria were: (a) a long life—alternatives that were expected to have a useful life of less than 10 years were eliminated; (b) understandable and transparent—the procedure of deriving a price must be easy to see and understand; (c) geographic uniformity—the same basic formula price would serve as the minimum price across the country; and (d) reflect the manufactured milk market—the values of milk used in butter, powder, and cheese would be combined into a single formula price.

For its second level of criteria, the USC used a form of time-series analysis called vector autoregression (VAR), to test whether the proposed basic formula price replacements would satisfy the following: (a) reflect national market conditions for manufactured dairy products—the price for milk used in manufacturing should reflect the supply and demand for milk used in those products, measured by simulating a change in the level of stocks of the products and observing the impact on prices generated by each basic formula price option; (b) reflect changes in the value of milk used in manufacturing—observing how well each option responds to changes in the prices of butter, powder, and cheese; and, (c) provide price stability—as reflected by low standard deviations and low price variation in response to a change in stocks.

Comments

Over 1,600 comments were received relative to the basic formula price in response to the invitation to comment under Federal Order Restructuring. The comments ranged from one-page letters from dairy producers to lengthy discussions of a particular alternative to the BFP from trade associations or cooperatives. Most of the comments may be grouped into five categories representing alternatives to the current BFP. These five alternatives are: economic formulas, futures markets, cost of production, competitive pay price, and product price and component formulas. In addition, numerous comments were received relative to the use of National Cheese Exchange prices in particular and exchange prices in general in the determination of a basic formula price.

Economic Formulas

Economic formulas are mathematical or statistical formulas that incorporate factors reflecting the supply and demand for a particular commodity or product. Typically, economic formulas include factors such as consumer income, production, prices of competing products, population levels or per capita consumption, and inventories. Several comments were received supporting the use of an economic formula for determining the BFP. Two parties submitted specific formulas. One formula included the cost of milk production and a commodity reference price, plus consumer prices to reflect the demand side of the supply/demand equation. A second formula included such factors as disposable per capita income, a dairy parity index, and an index of manufactured dairy product prices. This formula also included a productivity index to allow the formula to automatically adjust for changes in productivity over time.

Proponents of economic formulas expressed the view that since these formulas incorporate both the supply side and the demand side, economic formulas would truly represent the value of milk, and would therefore be appropriate for use in determining the BFP. Additionally, proponents expressed the view that economic formulas would diminish price volatility and reduce the effect of the cheese market on prices, which proponents viewed as a positive outcome.

Opponents of economic formulas expressed the view that since economic formulas do not react to changing conditions, particularly technology, the formulas would not yield a value of milk that represented the true supply and demand for milk. Since many economic formulas have a tendency to be static rather than dynamic, the formulas do not react to changing economic conditions as rapidly as may be necessary. Opponents went on to explain that economic formulas are difficult to adjust; in many cases the only people who understand them are the people who constructed them in the first place.

Economic formulas can, if properly constructed, have a tendency to reflect the supply and demand for milk used in manufactured dairy products, at least in the short run. Stability of economic formulas depends on the variables used in the formula and the weight they receive. Since agricultural commodity markets can be relatively unstable because of inherent characteristics such as seasonality, weather, perishability, etc., the more weight a commodity price has in a formula the more unstable the formula is likely to be. Thus, a formula that attributes less weight to commodity prices will be somewhat more stable than a formula that attributes greater weight to such prices. The trade-off, of course, is that higher commodity-weighted formulas react more quickly to changes in market conditions. By contrast, factors such as cost of production, per capita consumption, population, and income tend to be more stable in periods of little or no inflation, and thus have a more stabilizing influence on formula-driven price series.

Changing technology should lead to reevaluating the weights of various cost components, but this subjects the formula to legitimate debate and scrutiny that in turn diminish the simplicity, transparency, and stability of a formula-derived BFP. Thus, there is a significant risk in using methodology to develop formulas that result in a price announced on the basis of data that is not publicly known, with only those announcing the price knowing the specific details of the derivation of the price. Further, when the methodology is unveiled, further debate and scrutiny are invited.

Additionally, data availability can be a problem. Some data may be available only on an annual basis, whereas the BFP must be established monthly. Substituting or estimating data is very likely to introduce a bias into the formula. The developer must exercise considerable judgment in constructing the formula price, and a major criticism of economic formulas is that they are difficult to understand, with the developer frequently being the only one to fully understand its intricacies.

The USC divided economic formulas into three categories: (1) cost of production formulas, which will be discussed later, (2) econometric models, and (3) formulas which included either a feed cost snubber or a stock snubber. The USC dismissed econometric models on the basis of the first level criteria, as being too difficult to understand and in constant need of maintenance, re-specification, re-estimation, etc. The formulas which included the feed cost snubber or the stocks snubber passed the first level criteria, but did not perform as well as other alternatives when subjected to the level two analysis.

Futures Markets

A number of comments were received proposing that the futures market be used to replace the basic formula price. One proponent proposed using a monthly weighted average of milk futures transactions on the Coffee, Sugar, and Cocoa Exchange (CSCE) computed on a daily basis. Proponents explained that since the commodity exchange allows free and open trading the price established would represent the national supply and demand for milk. A proponent went on to explain that open trading on a daily basis on the commodity exchange allows everyone in the dairy industry to track the established prices on a daily basis rather than under the current system where the price is just announced.

Opponents to the use of the futures market in establishing the BFP explained that the futures markets for dairy, and milk in particular, have not been trading for a sufficient period of time to determine what the exchange price represents. Opponents also expressed a concern that the volume

and open interest, at least for the present, are relatively small, and questioned the future viability of the dairy futures markets. Several opponents also expressed a lack of faith in having the BFP established by commodity traders rather than by the dairy industry although many, if not most, agricultural commodity prices are determined on futures markets.

Both proponents and opponents of futures markets agreed that once a solid history of trading dairy futures is available, it may be feasible to use the futures market to establish a BFP.

There are currently two different futures contracts for pricing milk. The Coffee, Sugar, and Cocoa Exchange (CSCE) has a fluid milk contract. In addition, the CSCE and the Chicago Mercantile Exchange have basic formula price contracts, which are cash settlement contracts using the current basic formula price. The cash settlement contract would not make a viable alternative to the current basic formula price because it is settling against an announced price that will not continue to be announced.

The fluid milk contract has behaved somewhat erratically when compared to the basic formula price, leading economists to question what market the fluid milk contract is pricing. Early research indicates that the fluid milk futures market is reflecting the spot value of Grade A milk rather than the value of milk used in manufactured products. Since the BFP is intended to represent the value of milk used for manufacturing, use of the futures market in its determination would not be appropriate.

Futures markets are not necessarily stable, nor are they intended to be. Futures prices fluctuate on a daily basis, reflecting changes in expectations about supply and demand. A weighted monthly average would introduce more stability, but the commodity influence would still drive the BFP and introduce significant variation into the price series.

The use of futures markets to derive the BFP could generate a price that is applied nationally. However, the futures basic formula price, although conceptually global in terms of participation, must be heavily influenced by supply and demand conditions in the upper Midwest region, since this region is the defined delivery area in the contracts.

There is a significant lack of familiarity, particularly at the producer level, with futures markets. Thus, transparency would not be a feature of a futures-driven BFP. Since most people do not understand futures markets it would be difficult to convince individuals that a futures-derived BFP is simple or predictable.

Finally, futures markets are not, and were not intended to be, cash price-setting mechanisms. They were established to transfer price risk. There is no reason to expect them to be suitable in serving a price-setting function for which they were not intended. There are also questions about the long term viability of the milk futures contract. Although volumes traded increased last summer, they have since declined, even more after the opening of the basic formula price cash settlement contract. Even if the milk futures markets continue to operate, they are very thin. Their use in establishing Federal order prices would result in a very small amount of trading setting prices across the nation.

The USC rejected use of the futures market to replace the basic formula price for many of the same reasons discussed above. The USC expressed particular concern about what is priced by milk futures contracts, and about the future viability of the milk futures market.

Cost of Production

A considerable number of comments received, predominantly from dairy producers, supported determining the basic formula price on the basis of the cost of producing milk. Proponents explained that the minimum price for milk should be no less than the cost to produce the milk, and many proponents expressed the opinion that a profit should also be included in the cost of production figure. Other proponents suggested a yearly adjustment or updater to account for inflation. Some proponents suggested the implementation of a quota system in addition to using the cost of production to determine the BFP, realizing that a guaranteed cost of production would undoubtedly lead to over-production. Very few of the proponents discussed what cost of production figures should be used or how to implement a cost of production basis across an industry with substantially different costs, even within the same region.

Very few comments opposed the use of cost of production to establish the BFP. Those filing opposing comments pointed out that cost of production represents only the supply factor for milk, including no demand factor. The opponents also observed that there are great difficulties in determining a cost of production regionally, let alone nationally, because cost of production varies greatly across regions.

Cost of production would be more stable than the current BFP, and more stable than other options based heavily on commodity market prices. Stability is due to the fact that many of the input values do not change rapidly or as rapidly as commodity prices. In fact, some cost factors may move in opposite directions, reducing the net effect of any one input factor. This is also one of the drawbacks to a cost of production-based BFP. The cost of production may not respond quickly enough, or sufficiently to reflect changes in supply conditions if, indeed, there is any observable link between cost of production and levels of milk production.

A basic formula price based on cost of production would be more complicated than many other options suggested, since considerably more data would be needed to accurately estimate cost of production. And, although a uniform price could be calculated if national averages are used, there is a wide range of cost differences by region, which would introduce problems of uniformity in prices.

The most serious drawback with using cost of production to replace the BFP, and the reason the USC dropped cost of production from consideration based on their level one criteria, is that cost of production represents only the supply side of the market, ignoring factors underlying demand or changes in demand for milk and milk products.

Competitive Pay Price

A number of producer groups and cooperative associations submitted comments supporting the use of a competitive pay price to establish the basic formula price. These proponents expressed the view that a competitive pay price is a good indicator of the national supply and demand for milk and would provide a simple, economically defensible method of calculating the true value of milk used in manufactured dairy products. Many of the proponents suggested adding additional states to the competitive pay price survey of purchasers of manufacturing grade milk in Minnesota and Wisconsin. Some of these proponents also suggested that a competitive pay price be adjusted for hauling subsidies, that premiums be removed, and that adjustments be provided for any unique payments that would not necessarily reflect true supply/demand conditions. Several proponents suggested including a competitive pay price for Grade A milk, with some adjustments, as a way to improve the size and representativeness of the competitive pay price.

Some of the comments favoring a competitive pay price addressed the issue of adjusting the competitive pay price to the current month. For the most part, proponents were opposed to using a formula containing a cheese price established on the National Cheese Exchange or the Chicago Mercantile Exchange, but supported the use of the NASS cheese survey price for such a purpose.

Opponents of a competitive pay price expressed the view that the current BFP, which uses a competitive pay price determined in Minnesota and Wisconsin, does not represent the national supply and demand for milk used in manufacturing but represents the value of such milk in Minnesota and Wisconsin. These comments stated that supply/demand situations in other regions of the country may vary significantly from Minnesota and Wisconsin, with regional price distortions resulting from the use of prices from a specific region.

A competitive pay price results from open market negotiation between dairy farmers (or their cooperatives) and milk processors. Competition requires sufficient numbers of buyers and sellers so that no one participant or group of participants can unduly influence the price. In addition, the price can not be a Federal- or State-regulated price, such as the price for Grade A milk currently priced under Federal milk orders.

Identifying a competitive pay price in today's dairy industry, where 70 percent of the milk is currently covered under Federal milk marketing orders, is a challenge. After accounting for state regulations, only about two percent of Grade A milk is unregulated, and it is unlikely that even this small amount of milk is not affected by regulated prices. Only about five percent of the total milk marketed in the U.S. is Grade B or unregulated, and 42 percent of that milk is located in Minnesota and Wisconsin. The remainder is scattered among 23 states in amounts too small and delivered to too few processing plants to generate a competitive pay price. In areas where alternative markets exist, the price for unregulated milk likely will not be below the price paid for regulated milk, since producers would prefer to sell their milk to regulated handlers to receive the higher regulated price. Thus, unregulated handlers are compelled to meet the regulated price in order to attract sufficient supplies of milk. The circular result is that the regulated price ultimately becomes the competitive price. This process does not lead to a representative competitive pay price for milk.

Most competitive pay price alternatives are not structurally different from the current BFP and will not yield a price series any more stable than the current BFP. Some improvement in stability might be possible with a more stable ''updater'' to adjust the competitive pay price. However, the updater may then result in a competitive price that fails to reflect the current value of milk used in manufacturing.

Competitive pay prices may have problems associated with uniformity, simplicity, and sound economics. With regard to simplicity, an updater would be necessary in conjunction with a method to determine premiums and federal order payments to deduct from the competitively set price. These adjustment mechanisms are neither very simple nor transparent. A competitive pay price may be uniformly applied, but as the competitive pay price often reflects the use of prices in just one region, the derived price may not be fully applicable across regions.

The concept of a competitive pay price has appeal from the standpoint of sound economics. But the submitted proposals, as well as the current basic formula price construction, raise concerns about the degree of competition reflected in a price based on the declining volume of Grade B milk produced and purchased, or the introduction of Grade A milk that, even if unregulated, is significantly influenced by minimum order prices and therefore suspect as a ''competitive'' price.

The addition of a Grade A price to a competitive pay price survey has been considered likely to raise the level of the BFP significantly above the level of the current basic formula price. The Minnesota-Wisconsin Grade A/B price currently collected by NASS has averaged about $0.75 per hundredweight above the BFP over the past five years. While the proposal to exclude performance premiums and the need for adjustment for the current month may help to minimize problems associated with the regulated price serving as the competitive price, serious issues are raised by this proposal. More data would be necessary, increasing the burden of reporting premiums paid to producers, the basis for such premiums, hauling subsidies, and hauling cost data.

The changes in market conditions and limited information would reduce the predictability of the new basic formula price, and transparency would not be assured, particularly if the price is based on a survey. The current BFP suffers from these same shortcomings, particularly as the price support program has declined in importance in the market.

In response to comments concerning the declining base of manufacturing milk in Minnesota and Wisconsin from which to draw survey information and the limited geographical area encompassed by the current survey, Grade A manufacturing milk data was gathered to analyze alternatives to the Minnesota-Wisconsin base month price. A Grade A pay price series was then computed. The price series included nine states' pay prices for Grade A milk that is used in manufacturing. These nine states, California, Idaho, Iowa, Minnesota, New Mexico, New York, Pennsylvania, Washington, and Wisconsin, account for approximately 75% of the Grade A milk used for manufacturing in the U.S. The Grade A pay prices were adjusted for protein content, performance premiums, over-order premiums, and hauling subsidies. The Grade A competitive pay price was below the current BFP base month price in 27 of the 35 months included in the study. When the product price formula updater was included, the Grade A pay price averaged $0.11 per hundredweight below the current BFP.

The determination that a Grade A pay price is lower than the current BFP conflicts with the hypothesis presented earlier. However, further analysis indicates that the result is not surprising when one considers the relative pay price and the quantity of milk used for manufacturing in each of the states that were included. Also, the 5-percent weighting of butter/powder versus 95 percent cheese production in the current BFP updating formula changed significantly, to approximately 30 percent butter/powder and 70 percent cheese with the use of national production data rather than the Minnesota-Wisconsin production data.

The reduced price level that would result from this study certainly provides justification for discarding a competitive pay price as a replacement for the basic formula price. One reason for the lower price level is the inclusion of prices from western states, especially California. California has become the nation's largest milk-producing state, and a major percentage of California milk is used in manufactured products. California has its own State milk order regulation, and maintains prices for milk used in manufactured products at levels below those in other areas of the nation, largely through use of very generous manufacturing allowances in computing milk prices from product prices. Handlers in other western states, even those under Federal order price

regulation, must compete with California handlers to sell their manufactured products. As a result, pay prices to producers in these areas tend to be lower than in the rest of the United States.

The USC evaluated several different competitive pay price series. Two of these price series, an A/B series and an adjusted A/B series, passed the level one criteria, but even these two series were questionable in their ability to reflect the manufactured milk market. Neither one of these two price series performed well when tested using the level two criteria and therefore were dropped from further consideration.

Product Price Formulas and Component Pricing

In comments supporting the use of a product price formula to replace the current basic formula price, proponents expressed the opinion that a price determined from the national finished product markets more accurately reflects the value of milk for manufacturing than other methods of determining a milk price. Proponents explained that the price handlers can afford to pay for milk is determined by the price for which the finished product can be sold. Therefore, a pricing system that translates finished product prices to a price for raw milk would result in the most representative raw milk price for both producers and handlers. Proponents of product price formulas explained that component pricing, with prices determined for butterfat, protein, nonfat solids, etc., would best be accomplished through product price formulas, to reflect the value of each component in finished product prices. Proponents also explained that product price formulas are relatively easy to use and understand, and that the value of milk may be computed on an on-going basis by everyone in the dairy industry by following commodity markets.

Proponents of multiple component pricing (MCP) explained that since the components of milk are what give milk its value, particularly in manufactured products, it is the components that should be priced; particularly butterfat and protein, and to a lesser extent the other solids contained in the milk.

Opposition to product price formulas was directed at the need for product yields and make allowances in determining a milk price or component prices. Opponents expressed the view that yields and make allowances would not reflect the true results in manufacturing plants, and therefore would not yield an accurate price for milk. Opponents further explained that when yields and make allowances are determined, they would be difficult to adjust and would not react to changes in manufacturing conditions. Opponents also argued that when an incorrect make allowance is established, plants are guaranteed a return, or profit, to the detriment of dairy farmers. Other opponents explained that an incorrect yield or make allowance may force payment for milk at a level that would not allow a return to the manufacturing plant.

The USC tested several product price formulas, including a one-class multiple component pricing formula and a set of formulas similar to the formulas recommended in this decision. Based on the results of the USC analysis measured against their level two criteria, the multiple component pricing formulas had the best overall performance of any of those alternatives reaching the level two testing.

Commodity Prices

A considerable number of comments were received concerning the use of commodity prices in determining a basic formula price. Most of the comments were directed at the use of National Cheese Exchange prices in the computation of the current BFP. Commenters expressed the view that the prices were being manipulated by the big cheese companies in order to keep milk prices low so that the cheese companies could make a larger profit.

Proposed Basic Formula Price Replacement

Application of the BFP and USC Committees' criteria for BFP replacement to the various BFP alternatives resulted in the determination that the proposed component pricing product price formulas best meet the stated goals and criteria.

Prices derived from product price formulas that use commodity prices as the basis for the computed price are subject to the same problems of stability as the underlying commodity prices. For the most part product price formulas do not include a factor to improve stability.

Product price formulas are relatively simple to compute and understand, and may be applied uniformly, or on a regional basis, accommodating differences in yields or make allowances. Product prices established in a relatively free and open interaction between supply and demand directly translate the value of the finished products to the value of milk and its components. Therefore, they have a sound economic underpinning. Arguably, product price formulas reflect the supply and demand for the manufactured product, rather than for raw milk used to produce the product, and therefore may be criticized for not adequately representing market conditions for milk used in manufacturing. They should, however, reflect accurately the market values of the products made from such milk.

Product price formulas can require increased data collection, particularly if industry insists on audited make allowances and actual transaction prices to be used in the formulas.

The predictability of prices computed from product price formulas should be reasonably good, or at least no worse than predictability of the underlying commodity prices. Short run predictability should even improve since all information needed to compute prices is reported on an ongoing basis, unless survey information is used. This contrasts with the present BFP computation in which a major part of the formula, the base month Minnesota-Wisconsin price, is not available until the actual basic formula price is announced.

Product price formulas are transparent, since the information to compute the price is available, and the effect of a change in commodity prices or one of the other factors may be observed and quantified.

This proposed rule recommends that the BFP be replaced with a multiple component pricing system which will determine butterfat, protein, and other solids prices for milk used in Class III products and butterfat and nonfat solids prices for milk used in Class IV products.

Numerous comments were received concerning whether the revised orders should keep Class III–A (i.e. a four class market) or whether all hard manufactured products should be priced in Class III. The opposition to Class III–A centered around two issues: (1) the integrity of the classified pricing system, and (2) the perception that a butter/nonfat dry milk class would reduce producer pay prices. The supply/demand for butter and nonfat dry milk is sufficiently different from the supply/demand for cheese to justify separate classification and pricing. In addition, the recommendation to use the higher of the Class III or Class IV price for determining the Class I price, and base the Class II price on the Class IV price, should more accurately reflect the value of these different categories of use.

Changes in the cheese markets have a major impact on the dairy industry. The cheese industry has evolved from cheese production being a means of surplus milk storage and removal to a competitive consumer demand-driven

industry. Currently, more milk is used in cheese production than is used in Class I. The nonfat dry milk industry is now one which balances surplus milk storage and removals. This category is also evolving, with increasing commercial uses for nonfat dry milk, and dry milk products formulated for specific needs. Increasing quantities of nonfat dry milk are being produced for use in other dairy products and the food and pharmaceutical industries.

The separation of manufacturing milk into two classes will assure that shifts in demand for any one manufactured product will not lower the prices for milk used in all other classifications, including Class I prices. Recent milk price increases have been attributed to increased cheese values. Many people expect that per capita cheese consumption will continue to grow. However, some warn of impending market saturation as more cheese plant capacity materializes and consumer tastes and preferences change. Cheese consumption patterns are based on many factors outside the dairy industry's control. Health concerns relating to changing demographics, changes in pizza consumption and income growth, as well as retail and wholesale inventory decisions, etc., will impact consumption and prices. A recent report by the Food and Agricultural Policy Research Institute noted that ''anything that results in demand weakness for cheese will likely result in a markedly different outlook for the entire dairy sector . . .'' The proposed pricing system will allow other manufactured products (i.e. Class IV) to move Class I prices, helping to reduce the volatility in milk prices.

Over the last six years cheese prices, and to a lesser extent butter prices, have shown considerable fluctuation while the nonfat dry milk price remained relatively stable. Price changes for these finished products are indicative of various supply/demand situations over time. The stable nonfat dry milk prices and the butter prices prior to the fall of 1995 were a reflection of large stocks being carried in storage and flat demand. Prices for nonfat dry milk and butter became more volatile once government inventories were depleted and were no longer a factor in stabilizing prices. Butter prices increased during May and June of 1997 in response to demand for cream, while both cheese and nonfat dry milk prices remained relatively flat. These differences in price movements indicate separate supply and demand balances for different manufactured dairy products.

The different supply and demand characteristics for the cheese and butter/nonfat dry milk market segments warrant separate classification and prices. Research by Emmons (discussed in the BFP Committee Preliminary Report) concluded that no single pricing system is appropriate for all classes of milk and, in fact, that multiple pricing formulas are appropriate. Each product would be allowed to achieve its market clearing level independent of the other products. Dairy farmers will be paid a price which is more representative of the level at which the market values their milk.

The current BFP serves two functions: (1) a fixed differential is added to the current BFP to establish the Class I and Class II prices; and (2) the current BFP serves as the Class III price, or the price for milk used in manufactured products. In some Federal milk orders a seasonal adjuster is added to the BFP to determine the Class III price. The proposed replacement would function in a similar fashion, using component prices. Class IV (butter/nonfat dry milk) would be priced on a butterfat and nonfat solids basis. Class III (hard cheese) would be priced on a butterfat, protein, and other solids basis. The price of butterfat would be the same in Class II, Class III, and Class IV. Payments to producers under MCP would be based on the Class III prices for butterfat, protein, and other solids in addition to a producer price differential computed from the value differences between other classes and Class III components and from differences in butterfat and other solids values between classes. Producer pay prices also would be adjusted for the somatic cell count of producers' milk under orders with MCP.

Because nonfat dry milk may be substituted for fresh milk or wet solids in the production of many Class II products, the Class II price should be determined using Class IV butterfat and nonfat solids prices plus a fixed per hundredweight differential of $0.70 over the Class IV skim price. The $0.70 differential represents the cost of converting concentrated milk to dry solids, plus rehydration. Class II would be priced on a current basis rather than in advance to enable the Class II price to be aligned with the Class IV price. This alignment should also reduce perceived problems in the use of nonfat dry milk to make Class II products. Tying the Class II price to the Class IV price by this fixed differential should reduce the incentive to produce nonfat dry milk for use in Class II products.

The Class I price should consist of a Class I butterfat price and a Class I skim milk price. The Class I butterfat price would be determined by adding a fixed Class I differential to a 6-month declining average of the second preceding month's butterfat price (used in Classes II, III, & IV). The Class I skim milk price would be determined by adding a Class I differential to a 6-month declining average of the second preceding month's skim milk price (using the higher of Class III or Class IV skim prices). The calculation of Class I prices would be the same for both MCP and non-MCP markets.

Announcement of Class I butterfat and skim milk prices in advance eliminates current problems caused by butterfat differential fluctuations. Handlers would have true advance Class I pricing. There would be two different butterfat prices each month but no butterfat differential. The separate Class I butterfat price should integrate easily since Class I butterfat testing and reporting currently exists.

The prices for butterfat, protein, and other solids used in Class III would be computed as follows:

Butterfat price=(NASS AA Butter survey price − 0.079)/0.82)

Protein price=((NASS block cheese survey price − 0.127)x1.32)+((((NASS block cheese survey price − 0.127)x1.582) − butterfat price)x1.20)

Other solids price=((NASS dry whey survey price − .10)/0.968).

The butterfat price for Class IV products is the same as for Class III while the nonfat solids price is computed as follows:

Nonfat solids price=((NASS nonfat dry milk survey price − 0.125)/0.96)

This system of pricing best fits the three established goals and criteria, discussed previously, for a replacement to the BFP.

The first goal, that a replacement for the basic formula price meet the supply/demand criteria set forth in the Act, may be the most difficult to evaluate definitively since the Act specifically mentions minimum prices to producers. The BFP, as part of a classified pricing system, does contribute to minimum prices to producers. However, the basic formula price does not need to be set at a level to ''assure an adequate supply of wholesome milk.'' The proposed BFP replacement meets the supply and demand criteria for milk used in butter/nonfat dry milk and cheese even though they are established from finished product commodity prices. The commodity prices are based on a competitive marketplace and reflect the supply and demand for those products (Class III and Class IV) that utilize

approximately 50% of the Grade A milk supply.

The supply and demand for Grade A milk is not limited to one category of products. The same milk may be used for fluid or soft manufactured products as well as the Class III and Class IV products used to determine the BFP. As a result, the minimum prices established for Class III and Class IV reflect supply and demand not only for finished products but for the milk used to make them.

The second goal is that a BFP replacement should not deviate greatly from the price level of the current BFP. Several comparisons of this proposed basic formula price replacement were made to the current BFP to determine whether the proposed formulas resulted in a price level for milk used in manufactured products that is reasonably close to the current BFP.

Protein, butterfat, and other solids values were combined to compute a Class III hundredweight price using standard factors of 3.15 for protein and 5.5 for other solids. The resulting price averaged $0.26 or 2 percent above the current BFP for the 69-month period of September 1991 through May 1997. The Class IV hundredweight price, computed from the butterfat price and the nonfat solids price using a constant 8.65 for nonfat solids, averaged $0.22 or 2 percent below the current BFP during the same period. The proposed Class III and Class IV prices were both highly correlated with the current basic formula price. The Class III price had a .963 correlation coefficient while the Class IV price had a .749 correlation coefficient.

The proposed basic formula price replacement also meets the third primary goal. The proposed formulas have the ability to respond to supply/demand changes. The Class III and Class IV prices should respond appropriately since the formulas use NASS-surveyed commodity prices that reflect the supply and demand for these commodities.

Overall, the proposed BFP replacement formulas (for Class III and Class IV) meet the established criteria necessary for a BFP replacement. The formulas are relatively simple to use and can be applied uniformly. The formulas are transparent and the Class III and Class IV formulas meet the sound economics criterion.

The proposed use of NASS survey prices may reduce the ability to predict prices, at least in the near term, since there is a limited history of using NASS survey prices for computing Federal order prices. Predictability should improve over time as the relationship between the survey prices and easily-tracked exchange prices becomes apparent to industry observers. Regulation should be reduced since NASS is collecting the weekly cheese survey, and the manufacturing plant survey would no longer be required. Regulation could increase, however, make allowances are audited.

The proposed formulas used in the basic formula price replacement may result in prices that are less stable than the current BFP. Unlike the current BFP, in which commodity updates are used to adjust the producer pay price survey, changes in product prices would be the sole determinant of changes in component prices. The current BFP is based primarily on the base month survey price, which does not move as rapidly as the commodity markets (as noted by many respondents). As a result, the current BFP reacts more slowly to changes in the commodity markets than does the proposed commodity-driven price series.

There has been considerable criticism of the use of exchange prices (particularly cheese) in determining the basic formula price. This criticism ranged from inaccurate representation of commodity values to accusations of market manipulation. The National Cheese Exchange eventually closed and the Department decided to use a new NASS Cheddar cheese price survey in the computation of the basic formula price and in federal milk order component pricing plans. Cheese transactions occurring during the week are surveyed and released by NASS on the following Friday. From the weekly price and sales volume a monthly weighted average price is determined.

The BFP Committee recommended using NASS cheese survey prices and having NASS develop a price survey for butter. This survey would have to be expanded and data released more often. Nonfat dry milk and dry whey prices are currently surveyed and published, but will need to be published on a more timely basis if they are used in component price computations.

Several alternatives to a NASS price survey were considered. There is a cash butter market at the Chicago Mercantile Exchange (CME). These prices are currently used to determine the butterfat differential and butterfat price in all federal milk orders. Dairy Market News (DMN) publishes a wholesale butter price. Both of these price series have been criticized due to the ''thinness'' of trading. There is no exchange trading of dry milk products. Alternatives to a NASS survey are limited to prices published by Dairy Market News or a California survey. The prices reported by DMN are generally considered to be representative of the dry product markets. However, the prices are reported as a range. A simple average of the prices is used to compute a monthly price and may not reflect the weighted average price at which the product moved. In many instances multiple heat treatment products are involved, and a substantial number of forward contracts are included. The DMN prices are not intended to establish prices but are provided for market information.

NASS data traditionally have been collected via a survey with voluntary participation. The price information in the current cheese price survey, like most NASS data, is not audited. NASS applies various statistical techniques and cross-checking with other sources to provide the most reliable information available.

Alternatives and comments regarding exchange trading and the use of NASS survey prices are invited. This decision proposes the use of NASS survey prices for computing the component values used in the BFP replacement.

Make Allowances

Several characteristics of Federal milk orders should be kept in mind concerning make allowances. First, federal milk order prices are minimum prices. Second, the BFP and its replacement should price milk used in what have been considered surplus products. The BFP is not intended to represent the total value of all milk. Third, most dairy manufacturing plants are not required to participate in the federal milk order pool and are not required to pay federal milk order prices.

An economic engineering approach to determine appropriate make allowances was investigated. Neither the time nor the resources are available to construct models for determining appropriate make allowances at this time. As an alternative, various sources were used to determine appropriate make allowances for the basic formula price replacement. Research by Stephenson and Novakovic of Cornell University indicates that results obtained by using an economic engineering approach can be comparable to a survey of plants. Resources may need to be devoted to developing an economic engineering model, a survey, or a combination of the two.

The proposed butter make allowance of $0.079 per pound and the nonfat solids make allowance of $0.125 per pound were developed from an analysis of several sources. Research by Stephenson and Novakovic on surveyed data from butter and nonfat dry milk manufacturing plants resulted in

equations for estimating the long-run average cost per pound of producing butter and nonfat dry milk.

Applying these equations to national average nonfat dry milk production resulted in make allowances ranging from $0.1166 to $0.1561 per pound. These values are in alignment with the seven-year average, $0.1392 per pound, based on audited cost of production data published by the California Department of Food and Agriculture. This California average included a return on investment. These computed costs straddle the proposed $0.125 make allowance. The proposed $0.125 make allowance is approximately 90 percent of the California production costs. The $0.125 make allowance is appropriate, as it covers the costs of most plants but does not cover the costs of all manufacturing plants. Several comments in support of product price formulas also suggested that a make allowance of $0.125 for nonfat dry milk was appropriate.

The determination of the $0.079 butter make allowance is also based on research by Stephenson and Novakovic. However, applying the long run cost equations to national production results in national make allowances ranging from $0.1318 to $0.1013. These values are considerably higher than the seven-year average of $0.0879 reported by California. Variation in plant size, or capacity, is the main reason for the differences between the computed values and the average for California butter plants. Many plants produce small quantities of butter, resulting in an understated average plant size and overstated cost figures. This rapidly becomes apparent when comparing California data to the national average data. California produces approximately three times more butter per plant than the national average at a lower cost. The $0.079 make allowance is set at 90 percent of the California audited cost of production. This make allowance should allow an efficient butter plant to operate.

The other solids make allowance is based on research conducted by Hurst, Aplin, and Barbano of Cornell University. Their research indicated a make allowance range of $0.079 to $0.259 per pound of whey powder, depending on plant size. The $0.10 used in the other solids price computation corresponds to the area of the manufacturing cost curve at which manufacturing costs per unit, that diminish as volume of production increases, begin to level off. This part of the cost curve would appear to be the most appropriate to use for determination of the other solids make allowance.

As in the case of the other solids make allowance, the proposed $0.127 per pound protein make allowance reflects the point where the long-run average cost curve begins to level off for Cheddar cheese production. This cost curve was developed by Mesa-Dishington, Barbano, and Aplin of Cornell University. The combination of the cheese and other solids (dry whey) make allowances result in a total Class III make allowance approximately $0.10 below the reported California audited make allowance.

The proposed make allowances used in computing the component prices for Class III and Class IV result in per hundredweight prices which did not deviate greatly on average from the current BFP over the period analyzed, one of the criteria for a basic formula price replacement. During the September 1991 through May 1997 period on which this analysis is based, Class III prices would average $0.26 per hundredweight above the current BFP, with Class IV prices averaging $0.22 per hundredweight below.

Changes in make allowances will affect component prices and per hundredweight milk values. A one-cent per pound change in the butter make allowance will affect the butterfat price in the opposite direction by $0.0122 per pound. This would be $0.0427 per hundredweight for milk at 3.5 percent butterfat. The butterfat price also is used in the computation of the protein price. The protein price will change inversely to the butter make allowance by $0.0146 per pound or $0.046 per hundredweight for milk with 3.15 percent protein. A positive make allowance change for nonfat dry milk will result in a decline in the nonfat solids price. A one-cent change in the nonfat dry milk make allowance will result in a $0.0104 per pound or $0.094 per hundredweight opposite change in the nonfat solids price. A one-cent change in the cheese make allowance will cause an opposite change in the protein price by $0.0322 per pound or $0.1014 per hundredweight for milk with 3.15 percent protein. Finally, a one-cent change in the other solids (dry whey) make allowance will change the other solids price by $0.0103 per pound or $0.0567 per hundredweight in the opposite direction.

The factors used in the proposed formulas to compute component prices are determined by the quantity of the component in the commodity, except for protein, for which the Van Slyke yield formula is used. In the protein formula, the 1.32 and 1.582 are yield factors derived from the Van Slyke cheese yield formula. The 1.32 factor times the cheese price is used in the protein price formulas in many current Federal order component pricing plans. Both the 1.32 and 1.582 are determined by calculating the change in cheese yield if an additional tenth of a pound of protein or butterfat is contained in the milk, holding everything else constant. Accounting for the additional value of butterfat in cheese is necessary. This additional value is included with the protein price calculation as a means of quantifying the amount by which the value of butterfat in cheese exceeds the value of butterfat in butter, and because it is the casein in protein that forms the molecular matrix that retains the butterfat in cheese. The ratio of butterfat to protein is calculated from the protein and butterfat yield factors of 1.32 and 1.582.

The nonfat solids formula uses the 0.96 factor as the percent or quantity of nonfat solids in a pound of nonfat dry milk. The 0.82 in the butterfat formula represents the percent or quantity of butterfat in one pound of butter. The 0.968 factor in the other solids formula represents the percentage of other solids in whey powder.

This proposed pricing system eliminates the need for regional yields based on regional differences in milk composition. The value of milk would be adjusted automatically based on the level of components contained in the milk in each order even though the component prices are the same nationally. This automatic adjustment means that handlers would pay the same price per pound of component but have differing per hundredweight values based on the milk component levels, creating equity in the minimum cost of milk used for manufacturing purposes.

An analysis of the basic formula price replacement requires several assumptions. Historic commodity price surveys are not available for all of the commodities. Prices used as substitutes for historic price survey data in this analysis include: the National Cheese Exchange 40-pound block prices for computing protein prices; the Chicago Mercantile Exchange Grade AA butter prices for computing butterfat prices; and the Dairy Market News Central States dry whey price for computing the other solids prices. Available survey prices used were nonfat dry milk prices published monthly by NASS in ''Dairy Products''.

One of the requirements of a basic formula price replacement, based on the assumption that the current basic formula price reflects the national

supply and demand for manufacturing milk, is that the price level not deviate greatly from the current basic formula price. All comparisons are thus made to the current basic formula price.

Three different comparisons were examined. First, standard component levels were used to compute a hundredweight price that was compared to the current basic formula price. The standards for computing Class III prices were 3.5 percent butterfat, 3.15 percent protein, and 5.5 percent other solids. The standards for computing Class IV prices were 3.5 percent butterfat and 8.65 percent nonfat solids. The second comparison computed a per hundredweight price using actual component tests to determine an ''at test'' value. A third comparison computed hundredweight prices at 3.5 percent butterfat with protein and other solids adjusted to reflect the change in skim milk that occurs as the butterfat is changed from ''at test'' to 3.5 percent. The latter two comparisons: (1) eliminate any bias occurring from the use of ''standard'' component levels, and (2) address seasonality of component levels. These latter two comparisons require tests for protein and other solids and were only performed for months in which test data was available (September 1991 through May 1997).

Statistically, the Class III hundredweight price and the Class IV hundredweight price did not equal the current basic formula price for all comparisons. However, in absolute terms, the average differences were relatively small. When compared to the Class III and Class IV prices computed using the constants, the current basic formula price averaged $0.26 per hundredweight below the Class III price and $0.22 per hundredweight above the Class IV price during the September 1991 through May 1997 period. Comparing the Class III and Class IV prices at test to the current basic formula price at test, the Class III price averaged $0.35 per hundredweight above the current basic formula price while the Class IV price averaged $0.19 below the current basic formula price. The third comparison, in which the Class III and Class IV prices are adjusted to 3.5 percent butterfat, had the Class III price averaging $0.32 per hundredweight above the current BFP, while the Class IV price averaged $0.22 per hundredweight below the current BFP.

In addition to comparing the absolute Class III and Class IV prices to the current BFP, it is important to compare the relationship between the Class III and Class IV prices and the current basic formula price. Correlation coefficients were computed to statistically test the relationships between the Class III and Class IV prices and the current basic formula price. Statistically, the correlation coefficients are positive and significant, indicating positive relationships between the current basic formula price and the Class III and Class IV prices. The correlation coefficient between the Class III price and the current basic formula price is generally above .95 while the correlation coefficient between the Class IV price and the current basic formula price is approximately .75. These relationships are expected since the current basic formula price is weighted more heavily on milk used for the manufacture of cheese than on the value of milk used in the manufacture of butter and nonfat dry milk.

The proposed Class III and Class IV formulas are computed from product prices representing the use of milk in each class. That is, the Class III price would be derived from the value of cheese while the Class IV price would be derived from the value of butter and nonfat dry milk. Therefore the Class III and Class IV prices could, and would, vary significantly from the current BFP in individual months, reflecting the economic (supply and demand) conditions for cheese, butter, and nonfat dry milk. This situation is particularly true of the Class IV price. For example, during 1993 and 1994 the price of butter and nonfat dry milk was relatively low and stable compared to the price of cheese. The degree of variability of individual months' prices from the average for the year is expressed by a standard deviation. A lower standard deviation indicates that individual observations (in this case, monthly product prices) vary less from the mean than would be indicated by higher standard deviations. These statistical descriptions indicate the difference in variability of prices between butter/powder and cheese in 1993 and 1994. Further examples are included in the attached table.

During 1993 the proposed Class IV price would have averaged $11.51 with a standard deviation of .15, compared to the 1993 BFP average of $11.80 with a standard deviation of .72, and the average Class III price of $11.99 with a standard deviation of .83. In 1994, the proposed Class IV price would have averaged $11.15 with a standard deviation of .13, compared to the 1994 BFP average of $12.00 with a standard deviation of .57, and the average proposed Class III price of $12.18 with a standard deviation of .65. For 1996, when the economic conditions for butter and nonfat dry milk had changed, and the prices become more volatile, the proposed Class IV price averaged $13.82 with a standard deviation of 2.19 versus the 1996 BFP average of $13.39 with a standard deviation of 1.26, and the proposed Class III average price of $14.04 with a standard deviation of 1.33.

The Class III and Class IV prices clearly reflect the value of the milk used in the respective manufactured products, whereas the current basic formula price reflects primarily the value of milk used to manufacture cheese. Therefore, to the extent the proposed Class III and Class IV formulas deviate from the present level of the BFP, they may be more appropriate indicators of the value of milk used in those products than the current BFP.

Class I

The basic formula price replacement also will act as a mover for the Class I price in addition to establishing prices for milk used in Class III and Class IV. Several comments were filed relative to the use of the basic formula price replacement to establish the Class I price. These comments ranged from continuing the current system to establishing the Class I price independently of the basic formula price(s) for milk used in manufactured products. One comment suggested eliminating the basic formula price and pooling only the Class I and Class II differentials.

In comments suggesting that the Class I price not be computed from the basic formula price, commenters expressed the opinion that the Class I price should not be based on prices for milk used in manufactured products because these prices do not reflect the market for Class I milk. The comments noted that fluctuations in the Class I price do not result in corresponding changes in the retail price for fluid milk, particularly when the Class I price is declining. These commenters suggested including the retail milk price, as well as other factors, in computing the Class I price. The result would be to determine the Class I price from an economic formula.

Other commenters expressed the opinion that the Class I price should be more stable, and that with advance pricing it is very difficult to price fluid milk products because of large fluctuations in the butter market. (It is the Class I hundredweight price at 3.5 percent butterfat that is announced in advance. Fluctuations in the butterfat differential, which is not announced in advance, result in corresponding fluctuations in the skim price, which is predominately applicable to Class I

milk.) Other commenters suggested that if the current basic formula price reflects the demand for fluid milk, the basic formula price and the Class I price should at least move in the same direction, rather than in opposite directions as they have done at times over the past several years. In addition, commenters expressed the opinion that the elasticity of demand for fluid milk products is significantly different from the elasticity of demand for manufactured products, justifying separate pricing of Class I and the basic formula price.

Proponents of eliminating the BFP and pooling only the Class I and Class II differentials explained that this proposal would eliminate the need and controversy of determining a basic formula price while still distributing the proceeds of the Class I and Class II markets to producers. The remainder of the producer value of milk would be determined directly by the market rather than from an administratively-established value for milk used in manufacturing.

The concept of pooling differentials only would eliminate the need to determine a basic formula price. However, the Act states that the Secretary shall establish minimum prices for milk and classify milk in accordance with the purpose for which it is used. The differential milk value would not be the minimum value nor differentiate between classes as specified in the Act. As interpreted herein, the Act does not provide for pooling differentials only and new legislative authority would be required in order to do so.

There certainly are some reasons for partially breaking the direct link between Class I prices and the BFP. This proposed rule includes a method for pricing Class I based on a six-month declining average of the higher of the Class III or Class IV prices. A complete separation should not occur since handlers compete for the same undifferentiated milk to use in Class I fluid milk products as well as in cheese and other manufactured dairy products. Therefore, an appropriate price relationship must be maintained between Class I and the manufacturing classes to assure an adequate supply of milk for Class I uses.

Partially breaking the direct link between Class I prices and the basic formula price replacement would reduce the volatility in producer prices. This rule proposes that the fixed Class I differential for each order be added to a 6-month declining average of the higher of Class III or Class IV skim prices and a 6-month declining average of the butterfat price. The skim milk price is determined for Class III by combining the result of multiplying 3.3 by the protein price and 5.7 by the other solids price, and for Class IV by multiplying the nonfat solids price by 9. These factors represent the quantities of the respective components in 100 pounds of skim milk. The use of a 6-month declining average would significantly decrease monthly Class I price volatility while minimally affecting the long-run price. Application of the 6-month declining average of the higher of the Class III or Class IV prices to the computation of Class I prices for the period February 1992 through May 1997 would have resulted in prices which averaged only two cents below the average price computed by adding a fixed differential to the higher of the Class III or Class IV skim milk price for the second preceding month.

The Class I butterfat price computation adds the Class I differential to the 6-month declining average of the butterfat price. Application of the Class I differential to both the skim and butterfat pounds rather than to total product pounds achieves true Class I advance pricing. A Class I handler consequently would know both the skim milk and butterfat prices in advance.

Several options were analyzed with respect to selecting the appropriate Class I price mover. The options included using the second preceding month's prices, using a moving average, and using a declining average. A declining average weights the current price most heavily, with the next most current price receiving a smaller weight, and so forth for the number of months included. For example, a three month declining average would weight the most current price by three, the next most current by 2, and the third price by 1, with the resulting sum divided by 6 to determine the average.

All options were evaluated on the ability to improve price stability while maintaining appropriate producer price signals. A Class I price mover using the higher of the Class III and Class IV skim milk prices for the second preceding month (most resembling the current mover) was the least stable option, with a standard deviation of 1.3188. A 12-month moving average of the higher of the Class III and Class IV skim milk prices resulted in the most price stability with a standard deviation of .8840. However, a 12-month moving average tends to react more slowly to economic signals since the most current month, which most nearly reflects current economic conditions, has a weight of only 8.3 percent. The 6-month declining average contributes a weight of 28.6 percent of the price to the most current month, while a 6-month moving average reflects only 16.7 percent of the current month's price in the average. By reflecting current economic conditions more rapidly than the longer moving averages, the 6-month declining average strikes an acceptable balance between responsiveness to current market values and the goal of stability.

The combination of advanced butterfat and skim milk pricing and a 6-month declining average will allow Class I handlers true advanced Class I pricing and increased price stability. Increased producer pay price stability as a result of increased Class I price stability will remain dependent on the Class I utilization of each market.

Improving price stability has other advantages. Dairy processors, consumers, and producers will benefit from less month-to-month variation in prices than is experienced under the current pricing mechanisms. Increased Class I price stability may result in lower prices to consumers.

As discussed previously, the price link between Class I use and Grade A milk used to manufacture Class III and Class IV products should be maintained since Grade A milk can be used for fluid uses as well as for manufacturing uses. Because handlers compete for the same milk for different uses, Class I prices should exceed Class III and Class IV prices to assure an adequate supply of milk for fluid use. Federal milk orders traditionally have viewed fluid use as having a higher value than manufacturing use. The proposed Class I price mover reflects this philosophy by using the higher of the Class III or Class IV price for computing the Class I price.

In some markets the use of a simple or even weighted average of the various manufacturing values would inhibit the ability of Class I handlers to procure milk supplies in competition with those plants that make the higher-valued of the manufactured products. Use of the higher of the Class III or Class IV price will make it more difficult to draw milk away from Class I uses for manufacturing. For example, if the Class IV price were used as the Class I mover there would be months in which the Class III price would be more than two dollars above the Class IV price. As a result, the Class I differential would have to be well over two dollars for the Class I price to remain above the Class III price. Certainly, in this scenario the economic decision would be to sell milk for Class III manufacturing, at least in those markets with a Class I differential below two dollars, since the price is above the Class I price. If the Class III

price is used as the Class I price mover, the reverse situation of having the Class IV price well above the Class III price would result in the same problem. The potential of having a Class III or IV price in excess of the Class I price is not entirely eliminated by using the higher of the Class III or Class IV price because of the advance Class I pricing feature, and, to some extent, because of the effect of using a 6-month declining average on which to base the Class I price. However, use of the higher of the two manufacturing prices for each of the months averaged and weighting the average toward the most recent month should reduce the popential considerably, allowing Class I handlers to compete more effectively with manufacturing plants for fluid milk.

Class II

Under this proposed rule, the value of Class II milk would be determined by multiplying the pounds of nonfat solids in producer milk allocated to Class II by the nonfat solids price, the pounds of butterfat by the butterfat price, and the hundredweight of Class II skim milk by $0.70. Generally, the source of inputs alternative to producer milk for the manufacture of Class II products is dry milk products and butterfat. Basing the price of milk used to make Class II products on these alternative ingredients should help considerably to remedy a situation in which it is perceived that a separate product class for dry milk (Class III–A) has a competitive advantage over producer milk used to produce Class II products. The 70-cent differential between the Class IV and Class II skim milk prices is an estimate of the cost of drying condensed milk and re-wetting the solids to be used in Class II products. One commenter suggested that there should be a $1.00 difference between Class IV and Class II. Additional comments on the appropriate level of this differential, with supporting data, are encouraged.

The proposed rule would not provide for advance pricing on Class II milk, for several reasons. First, although the current Class II price is announced in advance on the basis of the second preceding month's BFP, it is announced as a hundredweight price for milk containing 3.5% butterfat. When the butterfat price changes between the time the price is announced and the month to which the price applies, the 3.5% hundredweight price is still applicable, but the balance between the skim milk price and the butterfat price may have shifted significantly. This phenomenon effectively eliminates the advance announcement feature of Class II pricing. For example, on July 3rd the June basic formula price was announced, establishing the August Class II price for milk containing 3.5 percent butterfat at $11.04 per hundredweight. The June butterfat differential was $0.114, which if applied to the $11.04 would have resulted in a butterfat price of $1.2105 per pound of butterfat and $0.0705 per pound of skim milk. However, the August butterfat differential was $0.106. The actual butterfat price would therefore have been $1.11333 per pound, and the actual skim milk price would have been $0.0733. This example illustrates that even though the Class II price is announced in advance, the price of the skim milk and butterfat used in Class II currently is not known in advance. The further a product varies from a 3.5 percent butterfat content, the greater will be the effect of the butterfat price changes between the announcement date and the month in which the milk is used.

Second, although advance pricing would be possible under the proposed component plan, a problem occurs in accounting for the skim milk and butterfat, particularly butterfat, in Class II products. Additional finished product testing and accountability, and therefore increased regulation, would be needed to account properly for butterfat used in Class II since it would have to have a different price than the butterfat, priced on a current basis, used in other manufacturing classes.

Third, pricing Class II on a current basis would allow the price relationship between the nonfat solids and butterfat in Class IV and Class II to remain constant from month to month. With a constant price relationship between these two classes, competition and substitution between milk and the Class IV products used to make Class II products will be based on the relative merit of the alternative inputs rather than on regulated price relationships. The use of product price formulas, for Class II and well as for Class IV, should allow industry participants to track price trends throughout the month, enabling them to estimate changes in price.

Quality Adjustments

This proposed rule would adjust producer payments for the somatic cell count of producers' milk under orders using multiple component pricing. Payments made by handlers for milk used in Class II, Class III, and Class IV should also be adjusted on the basis of the somatic cell count of the milk. A somatic cell adjustment is appropriate for several reasons. First, somatic cell levels are not only an indicator of general milk quality, but also are an indicator of the potential yield of milk in cheese and other products that require casein for their structure and body. Research has shown a direct link between increased somatic cell counts and decreased cheese yields. Milk with the same protein content but different somatic cell counts has different values due to the difference in cheese yields caused by varying somatic cell counts.

Second, many producers currently are subject to some type of multiple component pricing plan or quality premium program that adjusts their pay prices for somatic cell levels even if the order in which their milk is pooled does not incorporate such adjustments. Although many producers' returns are affected by the somatic cell count of the milk, there is little, if any, oversight of the testing for somatic cells if the order does not include pricing adjustments. Fair and accurate testing can be assured by incorporating multiple component pricing and somatic cell adjustments into Federal orders. Third, somatic cell counts have taken on greater importance in the world dairy market, as evidenced by the recent debate between the European Community and the United States over allowable somatic cell counts in milk used to make exported dairy products. It is now more important that the somatic cell level of producer milk be verifiable.

The somatic cell adjustment should apply on a hundredweight basis and be computed by subtracting the somatic cell count (in thousands) from 350 and multiplying the result by the product of .0005 times the monthly average cheese price. This level of adjustment has worked well in orders currently containing somatic cell adjustments, and is supported by data and research contained in Federal order milk hearing records.

Application of the Proposed Basic Formula Price

Under this proposed rule, producers in most Federal order markets would be paid on a multiple component basis since the basic formula price replacement is based on individual milk component prices. Producers will be paid for the pounds of butterfat, pounds of protein, pounds of other solids, a per hundredweight price known as the producer price differential, and a per hundredweight somatic cell adjustment. The producer price differential returns to producers their pro rata share of the proceeds of the classified pricing system. The butterfat price for producers would be the same butterfat price computed for Class III and Class

IV butterfat. The protein and other solids prices would be the same protein and other solids prices computed for Class III.

Handler obligations and producer payments under the orders that are not proposed to have component pricing provisions would be based on hundredweight prices computed from these component prices.

All of the Federal milk orders will require changes to accommodate replacement of the current BFP with the proposed multiple component pricing plan or with its hundredweight price equivalent. There would no longer be a butterfat differential under any order, but a butterfat price. The same butterfat price would be used for butterfat in Class II, Class III, and Class IV, while a separate butterfat price, announced in advance, would apply to butterfat used in Class I.

For purposes of allocation of producer receipts the assumption will be made that the protein and other solids (nonfat solids) can not be separated easily from the skim milk. The protein and other solids will therefore be allocated proportionately with the skim milk based on the percentage of protein and other solids in the skim milk received from producers. Accordingly, the pounds of protein and other solids will be determined by multiplying the percent protein or percent other solids in the skim milk of the total producer milk received by the handler times the pounds of skim milk allocated to each class. The assumption that the nonfat components follow the skim milk may need to be revisited as the fractionation technology of milk continues to improve and the pricing system falls short of meeting the needs of marketing practices. At the present time such a problem is not apparent.

For the Market Administrator to compute the producer price differential, handlers will need to supply additional information on their monthly reports of receipts and utilization. Handlers that are filing reports in orders that currently have multiple component pricing and a somatic cell adjustment will see little or no change in their reporting requirements. Under orders that would be adopting component pricing for the first time, the pounds of protein, the pounds of other solids, and somatic cell information will be needed in addition to the product pounds and the butterfat currently reported. This data will be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as 9(c) handlers and, in some cases, receipts of bulk milk received by transfer or diversion.

Payments by handlers to cooperative associations for Class I milk would be calculated on the basis of Class I skim pounds times the Class I skim price plus the pounds of Class I butterfat times the Class I butterfat price. Payment for Class II milk would be paid for based on the Class II differential times the hundredweight of producer skim milk in Class II, the pounds of nonfat solids in Class II times the nonfat solids price, and the pounds of butterfat in Class II times the butterfat price. Class III milk will be paid for based on the pounds of protein in Class III times the protein price, the pounds of other solids in Class III times the other solids price, and the pounds of butterfat in Class III times the butterfat price. The pounds of nonfat solids in Class IV times the nonfat solids price, and the pounds of butterfat in Class IV times the butterfat price would be used to calculate obligations for Class IV milk. The appropriate somatic cell adjustment will apply to milk in Class II, Class III, and Class IV.

The Class I value of milk to handlers would be calculated by multiplying the skim pounds of producer milk in Class I times the Class I skim price plus the pounds of Class I butterfat times the Class I butterfat price. Class II milk value would be computed on the basis of the Class II differential times the hundredweight of producer skim milk allocated to Class II, the pounds of nonfat solids in Class II times the nonfat solids price, and the pounds of butterfat in Class II times the butterfat price. Class III milk value would be computed based on the pounds of protein in Class III times the protein price, the pounds of other solids in Class III times the other solids price, and the pounds of butterfat in Class III times the butterfat price. The pounds of nonfat solids in Class IV times the nonfat solids price, and the pounds of butterfat in Class IV times the butterfat price would comprise the value of Class IV producer milk. Also included would be the appropriate somatic cell adjustment applied to milk in Class II, Class III, and Class IV, the value of overage, the value of inventory reclassification, the value of other source receipts and receipts from unregulated supply plants allocated to Class I, and the value of handler location adjustments.

The handler's obligation to the producer settlement fund will be determined by subtracting from the handler's value of milk the following values: (a) the total pounds of producer milk times the producer price differential adjusted for location, (b) the total pounds of butterfat times the butterfat price, (c) the total pounds of protein times the protein price, (d) the total pounds of other solids times the other solids price, (e) the total value of the somatic cell adjustments to the producer milk, and (f) the value of other source milk at the producer price differential with any applicable location adjustment at the plant from which the milk was shipped deducted from the handler's value of milk.

Payments to producers traditionally have been made in two payments, a partial payment based, in most cases, on the prior month's Class III price and a final payment at the uniform price. This traditional payment system will continue, with any exceptions for local marketing practices noted in the regional discussions. The partial payment will be paid on a per hundredweight basis with the price equaling the combined value of the skim and butterfat prices for the lowest-priced class in the previous month. By computing the partial payment on a hundredweight basis, confusion about the use of partial month component test averages will be eliminated and handler's partial payroll processing costs should not be affected. Final payments to producers and for 9(c) milk will be based on: (a) the hundred weight of milk times the producer price differential adjusted for location, (b) the pounds of protein times the protein price, (c) the pounds of other solids times the other solids price, (d) the pounds of butterfat times the butterfat price, and (f) the somatic cell adjustment rate times the hundredweight of milk.

Since producers will be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers and to the Market Administrator must reflect the basis for such payment. Therefore the handler will be required to supply the producer not only with the information currently supplied, but also: (a) the pounds of butterfat, protein, and other solids in the producer's milk, as well as the average somatic cell count of the producer's milk, and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. The requirement that payment factors be reported to producers when producers are paid currently exists in all of the orders. Addition of the component information is purely a conforming change. Administration of these provisions should not be changed from current practices.

With advance pricing of Class I and the inherent instability of the commodity markets there may be occasions when the computation of the

producer price differential results in a value of zero or below. In such a situation, the producer price differential will be as computed.

The following table is of actual and proposed class prices and the proposed Class I price mover for the period of January 1994 through December 1997. The proposed prices are shown for information purposes only. These prices result from the strict application of the proposed formulas using current market situations. These prices should not be interpreted as prices that would have actually occurred throughout the data period because industry participants likely would have reacted differently to the proposed price levels than they reacted to the actual price levels.

Although the proposed formulas for calculating the Class III and Class IV prices resulted in prices fairly close to the BFP for the period over which data was collected and analyzed (September 1991 through May 1997), the price differences during the last six months of 1997 have been considerably greater. The proposed Class II price has averaged 83 cents over the BFP during July through December 1997, with a range of 63 cents to $1.00 more than the BFP. Over the same period, the proposed Class IV price has averaged $1.01 more than the BFP, with differences ranging from 3 cents under to $1.97 over. Comments on this failure of the more recent data to fit the relationship between the BFP and the proposed Class III and IV prices observed over the earlier and longer period are invited.

A feature of the relationships between the proposed class prices that should be pointed out is that there is no assurance that the class prices will retain the relative values that their designations might imply. Because of the advance pricing feature for Class I, and because the Class I price would be based on a declining average of former months' prices, there is some possibility that the Class I price level for some markets may fall below the levels of one or more of the other classes. At the same time, basing the Class II price on the Class IV component values might, at times, result in the Class II price falling below the level of the Class III price. Comments on whether such changing price relationships are appropriate and, if not, how they might be avoided, are welcome.

The pricing formulas contained in this proposed rule are suggested as viable replacements for the current basic formula price for use in establishing minimum prices for milk and the components of milk. Comments should address whether the formulas suggested are appropriate or whether other pricing methods would be preferable. In addition, comments are welcomed on the specific details of the suggested pricing formulas. This would include comments on the appropriate commodity prices from which component prices are to be calculated, the method of obtaining such prices, the content of each component to be priced in the relevant commodity, the appropriate make allowance to be used in the determination of each component price, the optimum method of determining the Class I price mover, as well as the appropriate level of the Class II skim milk differential. Such comments should incorporate relevant data and rationale to support the adoption of factors that differ from those proposed herein.

ACTUAL CLASS PRICES, PROPOSED CLASS PRICES, AND PROPOSED CLASS I PRICE MOVER, BY MONTH

[January 1994 through December 1997]

Year and month	Basic formula price	Proposed Class I price mover *	Proposed Class III price	Class III-A price	Proposed Class IV price	Class II price	Proposed Class II price
	Dollars per cwt						
1994:							
January	$12.41	$12.55	$12.36	$10.22	$11.00	$13.25	$11.67
February	12.41	12.55	12.43	10.23	11.01	12.26	11.68
March	12.77	12.69	13.09	10.32	11.22	12.61	11.90
April	12.99	12.88	13.36	10.34	11.31	13.19	11.99
May	11.51	12.57	11.69	10.24	11.08	13.88	11.75
June	11.25	12.16	11.15	10.09	11.02	12.18	11.70
July	11.41	12.01	11.85	10.13	11.08	10.35	11.76
August	11.73	11.96	12.08	10.38	11.21	11.84	11.88
September	12.04	12.03	12.44	10.35	11.25	12.95	11.92
October	12.29	12.16	12.55	10.36	11.29	12.15	11.97
November	11.86	12.14	11.88	10.40	11.29	12.53	11.97
December	11.38	11.94	11.31	10.17	10.99	12.24	11.67
Average	12.00	12.30	12.18	10.27	11.15	12.45	11.82
1995:							
January	11.35	11.78	11.44	10.06	10.83	11.02	11.51
February	11.79	11.78	11.96	10.12	11.05	11.35	11.72
March	11.89	11.85	12.17	10.22	11.14	12.20	11.81
April	11.16	11.72	11.42	10.27	11.17	12.09	11.84
May	11.12	11.62	11.36	10.21	11.19	12.19	11.87
June	11.42	11.64	11.69	10.37	11.28	11.46	11.96
July	11.23	11.65	11.70	10.61	11.49	11.42	12.17
August	11.55	11.83	12.36	10.82	11.72	11.72	12.40
September	12.08	12.24	13.22	10.90	11.82	11.53	12.50
October	12.61	12.74	13.69	11.66	12.45	11.85	13.12
November	12.87	13.18	13.89	12.40	12.89	12.38	13.56
December	12.91	13.54	14.01	11.24	11.99	12.91	12.66
Average	11.83	12.13	12.41	10.74	11.58	11.84	12.26
1996:							
January	12.73	13.62	13.43	11.16	11.95	13.17	12.63
February	12.59	13.59	13.31	10.39	11.54	13.21	12.21
March	12.70	13.54	13.41	10.32	11.40	13.03	12.07

ACTUAL CLASS PRICES, PROPOSED CLASS PRICES, AND PROPOSED CLASS I PRICE MOVER, BY MONTH—Continued

[January 1994 through December 1997]

Year and month	Basic formula price	Proposed Class I price mover*	Proposed Class III price	Class III-A price	Proposed Class IV price	Class II price	Proposed Class II price
April	13.09	13.61	13.88	10.52	11.55	12.89	12.23
May	13.77	13.80	14.32	11.90	12.66	13.00	13.34
June	13.92	14.23	14.18	15.12	15.24	13.39	15.91
July	14.49	14.91	14.86	16.01	16.33	14.07	17.01
August	14.94	15.46	15.71	15.82	16.33	14.22	17.00
September	15.37	16.10	16.31	15.85	17.17	14.79	17.84
October	14.13	16.21	15.04	14.94	15.91	15.24	16.58
November	11.61	15.42	12.45	12.18	13.12	15.67	13.80
December	11.34	14.56	11.59	11.75	12.67	14.43	13.34
Average	13.39	14.59	14.04	13.00	13.82	13.93	14.50
1997:							
January	11.94	13.77	11.92	11.50	12.48	11.91	13.16
February	12.46	13.36	12.36	12.36	13.18	11.64	13.86
March	12.49	13.25	12.47	12.78	13.73	12.24	14.40
April	11.44	13.12	11.51	12.10	13.06	12.76	13.73
May	10.70	12.97	10.69	11.56	12.49	12.79	13.17
June	10.74	12.98	10.76	12.22	12.98	11.74	13.66
July	10.86	12.93	11.51	12.06	12.83	11.00	13.50
August	12.07	12.94	13.07	11.88	12.69	11.04	13.36
September	12.79	13.06	13.42	11.87	12.76	11.16	13.43
October	12.83	13.43	13.71	13.50	14.27	12.37	14.95
November	12.96	13.89	13.88	14.01	14.79	13.09	15.47
December	13.29	14.08	14.23	12.46	13.53	13.13	14.20
Average	12.05	13.32	12.46	12.36	13.23	12.07	13.91
48-Month Avg	12.32	13.09	12.77	11.59	12.45	12.58	13.12

*To be used to calculate Class I price for second succeeding month.

3. Class I Pricing Structure

Although not required by the 1996 Farm Bill, the legislation provided authorization for the Secretary to review the Class I (fluid milk) price structure (as part of the consolidation of the orders) including the consideration of utilization rates and multiple basing points for developing a pricing system. In any event, the consolidation of orders requires the review of the pricing system because historically Class I pricing provisions, as well as other Federal order provisions, have been reviewed on an individual market basis.

The 1996 Farm Bill suggested two possible methods for establishing a Class I price structure, and USDA also specifically requested input from the public on this issue. As a result of these requests, more than 1400 letters were received that addressed Class I pricing. The ideas submitted were divided into several categories including: basic formula price (market driven) plus a differential established on location, demand-based, or flat; decoupling Class I pricing from the basic formula price; pooling Class I differentials only; basing Class I pricing on the cost of production; end product pricing for all classes of milk; and various other ideas including farm point pricing, a two-class milk system, and differentials reflecting only regional supply and demand conditions.

To assist in analyzing and developing a Class I price structure, USDA established a partnership with Cornell University (Cornell). Cornell's analysis, in part, was based on the U.S. Dairy Sector Simulator Model (USDSS). The USDSS is used to evaluate the geographic or 'spatial' value of milk and milk components across the U.S. under the assumption of globally efficient markets. Using 240 supply locations, 334 consumption locations, 622 dairy processing plant locations, 5 product groups, 2 milk components (fat and solids-not-fat) and transportation and distribution costs among all locations, USDSS determines mathematically consistent location values for milk and milk components. The model uses data from May and October 1995.

The supply and consumption at the county level are aggregated to geographic points-cities central to a multi-county farm or population density-to simplify a very complex problem. The production of milk and the consumption of dairy products are fixed at the various supply and consumption points used. Plant locations are restricted to those presently processing products but plant processing locations were not constrained with respect to the volume processed. Processing costs are assumed to be uniform between locations and across plant volumes (no economies of scale). Therefore, processing is allowed to move among available locations to find the least cost solution in terms of assembly from supply points through distribution to consumption points.

Transportation costs are categorized by raw milk assembly, interplant bulk shipments, refrigerated and non-refrigerated finished products. Transportation costs among regions reflect not only distance traveled, but also differences in wage rates and actual highway weight limit restrictions. While assembly costs and interplant bulk shipments are calculated using a linear cost function, the refrigerated and non-refrigerated finished product functions are non-linear. In fact, refrigerated costs (e.g., packaged milk) fell below raw milk assembly costs on an equivalent unit basis in many cases at distances more than 900 miles. Previous spatial modeling at Cornell had assumed constantly higher finished product transportation costs versus raw milk assembly costs for all distances.[22]

[22] Earlier research that has been reported elsewhere was based on an older version of the model. Present revisions have made substantial changes to the various transportation cost functions. In particular, distribution costs for refrigerated products were reduced substantially and now are on par with bulk milk assembly costs.

The output from the USDSS model provides information as to optimal processing locations and volumes at those locations, milk assembly, and intermediate and finished product distribution flows. It represents a least cost, or 'efficient' organization of the industry. Importantly for the research, the model provides the marginal values (i.e., the value of one more unit) of milk at each location. These values, technically known as shadow prices, are indicative of values that are consistent with the optimized solution. A shadow price on one unit of milk at any processing location can be interpreted as follows: If the processor at a particular location had one more unit of milk, the entire pattern of milk assembly, and product transportation could be reorganized in such a way that marketing costs, equal to the shadow price, could be saved. This notion of marginal value is consistent with economic theory on how prices are determined in a competitive market.

The significance of the shadow value in terms of milk price regulation may be stated. If the regulated price, or cost of milk, is arbitrarily set higher than the shadow price at a particular processing location, a lower cost solution could be found by processing more milk at other locations. This would imply higher transportation costs for either raw milk assembly, finished product distribution, or both. Such a result clearly leads to a higher cost, less efficient system. It is also contrary to what is generally thought of as ''orderly'' marketing of milk which is a fundamental reason for the existence of federal milk marketing orders.

It should be stressed that for the purposes of looking at Class I values, the calculated shadow prices provide information regarding the relationship of the prices between geographic locations. They do not provide guidance regarding the overall level of Class I price or differential values. That is, the model does not help us understand whether the Class I prices should be $14 in Minneapolis and $15 in New York City, or $15 in Minneapolis and $16 in New York City. However, it does tell us that the Class I price difference between the two locations should be about one dollar.

A relative merit of the USDSS model is the degree of detail available in the output. This detail is achieved through the careful assembly of spatially disaggregated data. However, it should be remembered that by its construction the USDSS is a 'model' and thus a simplification of a complex dairy industry. In actuality, both the level and relative values between locations would change virtually daily and would reflect a host of influences not represented in the model. That notwithstanding, the USDSS model provides an objective guidepost from which to compare current federal order differentials and to consider possible alternatives.

Several factors must be considered when selecting a replacement for the current [23] Class I price structure. First, a Class I price structure must be considered from a national, as well as a local or regional, perspective. As expected, many comments from industry address Class I pricing issues from a local or regional perspective. These comments provide valuable information about particular markets but do not consider the feasibility or impact of a local or regional issue on a national basis. While remaining mindful of local and regional concerns, USDA has also evaluated structures from a national perspective.

Second, a Class I price structure must recognize the location value of milk. Results from the USDSS model confirm that milk has value at location. As described earlier, the model provides shadow prices reflecting the relative values of milk and milk components at geographic locations. While shadow prices do not suggest Class I differentials for specific locations, they do provide a means to evaluate price relationships among locations.

Third, a Class I price structure must recognize all uses of milk. The classified pricing system contained in the Federal milk order program values milk for fluid use higher than milk used for soft or hard manufactured products. The higher Class I price encourages all milk to be used first to satisfy Class I needs. At the point where the cost of moving milk from an alternate location for Class I use is equal to the cost to supply milk for manufactured products, demand for manufactured products influences a market's ability to procure milk for Class I needs. Thus, all uses of milk must be considered when evaluating a national Class I pricing structure.

Finally, a Class I price structure must meet the requirements of the AMAA. The broad tenet of the AMAA is to establish and maintain orderly marketing conditions. For the Federal milk order program this is achieved primarily through classified pricing and pooling. With regard to pricing, it is recognized that the objective of the AMAA is to stabilize the marketplace with minimum prices, not to set market prices. In evaluating a national Class I pricing structure, consideration was given to whether the proposed prices reflect enough of the milk value to maintain sufficient revenue for producers to maintain an adequate supply of milk and provide equity to handlers with regard to raw product costs.

Of the numerous Class I price proposals submitted, seven broad categories of proposals were selected for further evaluation. These seven categories of proposals are all based on a basic formula price plus a differential. The seven categories of proposals were selected because they basically adhered to these four standards. The seven options considered in further detail are location specific differentials, flat differentials, relative use differentials, demand-based differentials, and decoupled baseline with adjusted differentials. These options will be explained in more detail later.

Several comments were received that suggested pooling only Class I differentials as a replacement for the current Class I price structure. This proposal was eliminated from further analysis because it would require new legislative authority to implement since the AMAA requires the Secretary to establish minimum prices for milk. This proposal would result in the elimination of all manufacturing milk classes. Processors and manufacturers would compete for available milk supplies providing producers with a basic competitive price for their milk.

The AMAA requires in 7 U.S.C. 608c(5)(A) that the Department classify ''* * * milk in accordance with the form in which or the purpose for which it is used * * *'' and establish ''* * * minimum prices for each such use of classification.'' If the Department did not differentiate between the uses of milk as suggested in this proposal, it is difficult to determine how this would be accomplished. Moreover, Section 8c(5)(B) provides ''* * * for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handlers to whom it is delivered * * *.'' This further indicates that the intent of the authorizing legislation is the classification and pricing of all producer deliveries. Otherwise, it would be difficult to pay producers a uniform price for all of their milk ''* * * irrespective of the uses made of such milk by the individual handler to whom it is delivered.''

Several proposals were submitted supporting ''decoupling'' Class I prices

[23] Any references to the ''current'' system of Class I prices or the ''current'' price structure are to be interpreted as those established in or after the final decision based on the 1990 national hearing issued March 5, 1993 (58 FR 12634).

from Class III prices. The term ''decoupling'' has been construed in a number of ways; however, a review of the proposals indicates that the primary concern is about how the BFP influences Class I prices. The purist definition of decoupling is to determine Class I prices without relating them to the Class III price through differentials. This approach implies no relationship between the value of milk for fluid use and milk used for manufacturing. With this in mind, in general, decoupled prices could be determined in two ways: (1) Set Class I prices administratively; or (2) Set Class I prices based on a relationship that does not include the Class III price.

While it is true that milk for fluid use and milk for manufacturing use have different values, the realities of the characteristics of milk supply and demand, and the AMAA mandate ''to provide an adequate supply of milk'' for fluid use, suggests the necessity of a relationship between the price of milk for fluid use and milk used for manufacturing. Adopting a Class I price based on the purist definition of decoupling would not provide a relationship between fluid and manufacturing uses. In this context, decoupling Class I prices from Class III prices has been eliminated. However, the use of a ''decoupled'' price based on the Class III price is considered in further detail later.

Some comments were received recommending the use of end product pricing. One comment specifically recommended it on all classes of milk while others were unclear if end product pricing should apply to all classes of milk. Under end product pricing, milk components would be priced according to their value in the product mix.

A number of questions arise with the recommendation of end product pricing. Mathematically it is relatively easy to take commodity prices and work backward on the average. However, where is the appropriate ''end'' to work backward from? Nonfat dry milk, for example, is not an end product at the consumption level. Likewise, sweet butter can be used for ice cream, etc. Other questions raised by this option include: Is a Class I milk value properly discovered based on component value in manufacturing products? Do make allowances protect inefficiencies in the manufacturing sector and thereby transfer costs to the other sectors?

At this point in time there is no need to price Class I milk on end product components. The market system has limited ability to value additional nonfat solids in fluid milk sales. However, technology is on the horizon that may substantially change milk composition. If it results in a consumer acceptable product at some point in the future, end product pricing to establish fluid milk prices may need to be revisited.

Several comments supported the adoption of a cost of production factor in the determination of a Class I price. Milk prices are a result of the supply and demand conditions in the marketplace. The cost of producing milk is obviously a factor in the supply function. However, many other factors affect the price of milk. Demand influences such as household income levels, prices of substitutes or complements, and availability all have a significant impact on the price. Pricing milk solely on the cost of production lacks economic justification.

Numerous other Class I pricing proposals were presented to the Department. At this time they are not being further considered primarily because they are regionally based and are not feasibly adaptable on a nationwide basis, do not adhere to the requirements of the AMAA, do not recognize the location value of milk, or do not recognize all class uses of milk.

Of the seven categories of options selected for further review, six options were contained in the pricing reports issued by AMS Dairy Programs in March 1997. Based on the feedback received from these reports, another pricing option was submitted for consideration by USDA and has been included for further review. In addition, further analysis and development of the modified location-specific differentials (Option 1B), presented in the March pricing reports, has resulted in a revision of this proposal and it is now referred to as relative value-specific differentials. The seven options analyzed in further detail, representing a broad spectrum of views expressed by interested parties, are as follows:

Option 1A: Location-Specific Differentials—$1.60 per hundredweight fixed differential for three surplus zones (Upper Midwest, West, and Southwest) within a nine-zone national price surface, plus for the other six zones, an added component that reflects regional differences in the value of fluid and manufacturing milk.

Option 1B: Relative Value-Specific Differentials—Class I differentials are established based on a relationship between prices and geographic location. This option establishes the differential levels by equating the relative value-specific differential in Minneapolis, Minnesota, to current Class I differential level at this location of $1.20 per hundredweight. A location adjusted price differential for every county is established by evaluating differences between nearby Class I differential pricing points generated by the USDSS model.

Option 2: Relative Use Differentials—$1.60 per hundredweight fixed differential plus a formula-based differential driven by the ratio of Class I milk to all other uses of milk.

Option 3A: Flat Differentials—$1.60 per hundredweight flat differential, uniformly applied across all orders to generate an identical minimum Class I price at all locations.

Option 3B: Flat Differentials Modified by Class I Use—$2.00 per hundredweight differential in markets where Class I utilization is less than 70 percent on an annual basis and a differential equal to $2.00+$0.075 (Class I use % − 70%) in markets where the Class I utilization is equal to or exceeds 70 percent.

Option 4: Demand-based Differentials—$1.00 per hundredweight fixed differential plus a transportation credit based on location of reserve milk supplies.

Option 5: Decoupled Baseline Class I Prices with Adjustors—Baseline 1996 Class I prices adjusted by a supply/demand adjustor that uses a 12-month rolling average utilization to determine a 2 percent change that results in a $0.12 per hundred weight price adjustment. A short-term cost of production adjustor may also be applied to this option.

Evaluation Criteria

In order to evaluate the Class I pricing options, nine performance criteria, based upon the regulatory objectives and limitations of the AMAA, were developed. Economic principles of efficiency and equity were used to describe market performance. These evaluation criteria established an initial framework for analysis of the Class I pricing options. The nine evaluation criteria were divided into two categories, objective and administrative. Six objective criteria were identified and defined as follows:

1. Ensure an adequate supply of milk for fluid use. Class I price levels need to provide a sufficient price signal to maintain an adequate supply of milk for fluid use. This supply level can be achieved through either the movement of milk to where it is needed, increased production, or some combination of both.

2. Recognize quality (Grade A) value of milk. Grade A milk is required for fluid use. Additional costs of obtaining

and maintaining Grade A status need to be reflected in Class I prices.

3. Provide appropriate market signals. A Class I price should send timely signals to the market regarding supply/demand conditions.

4. Recognize value of milk at location. Basic economic theory, validated by actual market observations and University-based research, affirms that milk for Class I use has a different value at different locations. This value needs to be reflected in the Class I price in order for the system to recognize and resemble the market rather than interfere with the market.

5. Facilitate orderly marketing with coordinated system of prices. A system of Class I prices needs to be coordinated on a national level. Appropriate levels of prices will provide alignment both within and among marketing areas. This coordination is necessary for the efficient and orderly marketing of milk.

6. Recognize handler equity with regard to raw product costs. Appropriate levels of Class I prices provide known and visible prices at all locations thereby ensuring that handlers are able to compete for available milk supplies on an equitable basis.

Three administrative criteria were identified and described as follows:

1. Minimize regulatory burden. The Class I price structure should not significantly increase the burden on handlers, particularly small businesses. This would include increased reporting requirements and recordkeeping, as well as possible increases in administrative assessment should Market Administrators be required to manage a more complex regulatory system.

2. Minimize impact on small businesses. The Class I price should be set at a level that does not disadvantage small businesses in competition with large businesses.

3. Provide long-term viability. The Class I price structure should be expected to operate for an extended time period without major modifications.

The nine evaluation criteria listed above were used to qualitatively evaluate each of the seven options. Each option was evaluated based on how the option performed compared to the current system, either better than, worse than, or the same as, for each performance criterion. The results of the qualitative analysis provided a preliminary framework from which to identify options that would be analyzed quantitatively using a multi-regional model developed by the Economic Research Service of the Department.

Based on the qualitative analysis, four of the seven options were eliminated from further analysis. These options were: Option 2—Relative Use Differentials, Option 3A—Flat Differentials, Option 3B—Modified Flat Differentials, and Option 4—Demand-Based Differentials. These options were eliminated for various reasons including failure to adhere to AMAA, creation of disorderly marketing conditions, and impacts on small businesses. A discussion of the four eliminated options, including the evaluation against the evaluation criteria follows.

Option 2: Relative Use Differential. Utilization-based differentials were discussed extensively during the Farm Bill debate and have been discussed by the industry for several years. The 1996 Farm Bill specifically authorizes the Secretary to consider utilization rates when establishing Class I differentials. This is perceived to be based on an order's marketwide utilization. A utilization-based differential would allow Class I differentials to adjust automatically with changing market supply and demand conditions. An increased demand for fluid milk relative to supply would generate an increase in the Class I differential. Hence an incentive is provided to increase local production or attract alternate supplies. Likewise, if milk supplies increase in relation to fluid sales, the differential would adjust downward signaling to producers and handlers that milk is more than adequate to meet the local needs.

One possible option of a utilization-based differential is relative use. Under this concept, a marketing area's differential would be determined by a formula based on the ratio of Class I milk to milk in all other classes. In order to prevent widely fluctuating prices, a percentage limit could be placed on differential changes to temper adjustments based on market supply and demand conditions. For this analysis, a limit of 25 percent has been applied. The relative use ratio could be computed on a monthly, quarterly, or annually moving average basis.

Using this concept, the relative use Class I differential would equal $1.60 per hundredweight plus the relative use ratio times $1.00. A 25 percent limit would be applied so the new differential would not exceed 125 percent of the current differential nor fall to less than 75 percent of the current differential. The $1.60 base differential was selected to be comparable with other options considered in this rule such as Option 1A, location-specific differentials. Further discussion of the $1.60 base differential will be addressed under the discussion of Option 1A later in this proposed rule.

The table below illustrates the Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential for each order has been calculated, based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. This weighted average differential is not location-specific for the consolidated orders.

TABLE 1.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 2—RELATIVE USE

Proposed order [1]	Relative use ratio [2] (%)	+ $1.60=Class I diff. ($/cwt) [3]	Weighted average diff. ($/cwt) [3]	Maximum diff. range (75%–125%)	New diff. ($/cwt)	Change in diff. ($/cwt)
Northeast	0.92	2.52	3.14	2.35–3.93	2.52	−0.62
Appalachian	4.60	6.20	2.79	2.09–3.49	3.49	0.70
Southeast	5.76	7.36	3.04	2.28–3.80	3.80	0.76
Florida	7.54	9.14	3.89	2.92–4.86	4.86	0.97
Mideast	1.26	2.86	1.91	1.43–2.39	2.39	0.48
Central	0.95	2.55	2.52	1.89–3.15	2.55	0.03
Upper Midwest	0.53	2.13	1.32	0.99–1.65	1.65	0.33
Southwest	0.93	2.53	3.01	2.26–3.76	2.53	−0.48
AZ-Las Vegas	1.04	2.64	2.46	1.85–3.08	2.64	0.18

TABLE 1.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 2—RELATIVE USE—Continued

Proposed order [1]	Relative use ratio [2] (%)	+ $1.60=Class I diff. ($/cwt) [3]	Weighted average diff. ($/cwt) [3]	Maximum diff. range (75%–125%)	New diff. ($/cwt)	Change in diff. ($/cwt)
Western	0.42	2.02	1.84	1.38–2.30	2.02	0.18
Pacific NW	0.55	2.15	1.90	1.43–2.38	2.15	0.25

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Relative use ratio = Class I÷all other uses.
[3] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Analysis Based on Evaluation Criteria

In one of the nine criteria, Option 2 may perform slightly better than the current system. In five of the nine criteria, Option 2 performs poorer than the current system, while in the remaining three criteria, it performed about the same as the current system.

Option 2 was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. In terms of ensuring an adequate supply of milk for the fluid market, Option 2 provides for the appropriate minimum price levels necessary to bring forth adequate milk supplies to meet the needs of the fluid market. Based on the comparisons of weighted average current differentials versus the relative use ratio differentials, eight of the proposed orders would receive moderate to significant increases while three markets would have slight to significant decreases. Differential changes of these magnitudes could have some effect on milk supplies in some regions. However, the availability of milk for fluid use would not be significantly different from what exists today.

2. Recognize quality (Grade A) value of milk. Option 2 does recognize the quality value (Grade A) of milk with the $1.60 base differential.

3. Provide appropriate market signals. One of the benefits of a self-adjusting system is to provide producers with a better signal of the market conditions. In theory, when supplies increase in relation to fluid demand, the Class I utilization would decrease precipitating a downward adjustment in the differential thereby signaling producers to decrease production. Likewise, if supplies decrease relative to demand, the Class I utilization would increase precipitating an upward adjustment in the differential signaling producers to increase production and/or signaling processors of the need to reach further for the milk supply. Option 2 provides for a faster market signal than the current system of simply pooling the various classes of milk.

Option 2 does not recognize that utilization percentages may be affected by factors such as decisions to pool or not pool manufacturing plants, shifting supplies among markets, market incentives or disincentives such as transportation credits, and pool plant and producer definitions. These may or may not be appropriate factors to consider in determining supply/demand conditions accurately but these factors will directly impact the relative use ratio.

4. Recognize value of milk at location. Cornell's economic research indicates that milk has different values based on location and use. The relative use concept suggests that a market has only some average value and not a value at any specific location. Markets such as the Arizona-Las Vegas and Southwest would have similar utilizations but are quite different in size and in the distance milk must be hauled to provide sufficient supplies for the fluid market. Phoenix, Arizona handlers receive milk from relatively close supplies, less than 50 miles, whereas the San Antonio, Texas handlers must reach out 200–500 miles and Houston, Texas handlers must reach out 270–650 miles to adequately supply their total needs. The relative use concept does not take this into account. Location adjustments could not overcome this deficiency since they would create disorderly marketing conditions at points where they bordered on neighboring orders. Market structure with regard to supply areas and demand centers must be considered, thus Option 2 performs worse than the current system.

5. Facilitate orderly marketing with coordinated system of prices. The need for coordination of prices between and among markets is not recognized under the relative use concept. Markets with high Class I utilization could be adjacent to low utilization markets. Prices in adjacent markets need to be aligned to facilitate orderly marketing conditions. If utilization is the primary criteria for establishing Class I differentials, price alignment may not exist between adjacent markets creating handler inequity and disorderly marketing conditions.

6. Recognize handler equity with regard to raw product costs. Markets can adjust rapidly depending on pooling decisions of cooperatives. In 1996, the New Mexico-West Texas Order had a Class I utilization high of 52.1% in May falling to a low of 23.9% in December. Heavy manufacturing markets regularly have larger volumes of milk depooled during periods of rapidly increasing prices. If Class I differentials were allowed to adjust too frequently, price alignments established between and among markets would disappear causing inequity among competing handlers. To prevent extreme differential changes, percentage limits are proposed to limit differential changes. However when a change is warranted, a significant price adjustment could occur requiring realignment of zones between adjacent markets. Thus, the main attraction of this concept, the self-adjustment of differentials, actually creates problems with price alignment and handler equity between orders.

Option 2 was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 2 would not likely increase the regulatory burden on handlers. Differentials would be set until market conditions warranted a change. No additional reporting would be necessary to implement such a system.

2. Minimize impact on small businesses. Small handlers in markets where Class I differentials are decreasing might be somewhat disadvantaged since over-order charges would probably increase. This tends to affect small and large handlers disproportionately. Small milk producers in these markets could also experience a small decline in their pay prices.

3. Provide long-term viability. As supply and demand conditions in markets adjust to the point where differentials need to be changed, administrative input may be required to

align markets and maintain handler equity. Thus, the system becomes an administered system such as we have today rather than a self-adjusting procedure. This fact, as well as the other shortcomings, mentioned tends to negate its appeal as a viable long-term option.

Although Option 2 appears to perform better than the current system in providing appropriate market signals to producers, this becomes a major obstacle with this proposal. In fact, it is because of this self-adjustment that Option 2 performs poorer than the current system in five of the criteria. Even though independent of other factors Option 2 provides more appropriate price signals, it does so in a way that will have significant impacts on certain regions of the country. The projected impacts of Option 2 by region are discussed below:

Central, Mideast, and Upper Midwest. Class I differentials are estimated to increase from $0.00–$0.48 in the Central, Mideast, and Midwestern regions. Currently, over-order charges are significantly higher and likely would largely absorb these differential increases. Impacts on producers and processors would be minimal.

Northeast. The Northeastern marketing area would be affected significantly by the adoption of a relative use differential. Processors would pay on average $0.58 less for Class I milk as compared to the current system. Producers would likely turn to over-order charges to try to make up for their lost revenue. Historically, this region has had difficulty maintaining a large over-order premium structure and assumptions are that this would continue. Producer incomes would decrease possibly impacting the total market's milk supplies.

Southeast. Large increases in Class I differentials would occur in the orders located in the Southeast. Class I handlers would experience increased competition from lower cost handlers in nearby markets. Producers in these markets would probably not experience any significant gains from these increased differentials due to the over-order premiums that are currently being charged.

Southwest. The Southwest market is the only other market to experience decreases in differentials. Over-order charges currently are relatively small in this market and an attempt to increase the charges would likely occur. However, producer groups have had the same difficulty as the Northeast in maintaining an over-order structure. A $0.48 drop in the average differential in the Southwestern market would surely be felt by producers and accelerate the exodus of producers from the East Texas supply area. Producers in New Mexico and West Texas would also be affected, but the impact may not be as severe.

Arizona-Las Vegas, Western, and Pacific Northwest. In the Western regions, Class I differentials are expected to increase slightly. Over-order charges in these markets are not as great as in the Midwestern markets and would probably be unable to totally absorb any significant Class I price increase. Producer pay prices and Class I handler costs would increase slightly.

Because of the limited effect of overall Class I differential changes, Option 2 would have a minimal effect on small businesses, both producers and processors. Areas that have decreases in Class I differentials would have a minimal negative impact on producer pay prices. The majority of producers impacted in these regions are categorized as small businesses. On the other hand, handlers in areas with larger increases in the Class I differentials would experience increased competition from lower cost regions. Location advantages of some small handlers would disappear while others emerge. Handler equity in these competing markets could erode placing some small handlers under greater risk.

It is difficult to quantify the impact to consumers under this option. Federal Order Class I differentials around the country would likely increase slightly. Over-order charges may decline to offset this increase. It is expected that overall handler costs would change slightly under this option resulting in little change to consumer prices.

Although this option would provide more appropriate and timely market signals to producers, setting Class I differentials based solely on utilization presents price alignment problems. Because Class I differentials would be allowed to change independently from adjacent markets, this would result in significant equity problems among competing handlers thus impacting small businesses on a continual basis. Consequently, this proposal would lead to disorderly marketing conditions throughout the Federal order program and is not given further consideration as a possible Class I price structure.

Option 3A: Flat Differential. Under this option, an equal differential would be applied in all orders resulting in an identical minimum Class I price at all locations. For example, the Class I differential in Atlanta, Georgia, would be the same as the Class I differential in Minneapolis, Minnesota. For comparison to other Class I price options discussed in this proposed rule, a flat $1.60 differential level has been evaluated even though some public comments proposed flat differentials of $2.00 or more per hundredweight.

The concept of flat Class I differentials across all orders is largely predicated on the view that current Class I differential levels are too high in many parts of the country. Accordingly, regionally differentiated Class I prices are generally unwarranted and have led to or have not been properly adjusted to reflect changes in milk production. The most recent consideration of a flat Class I price plan was considered during a National Hearing held in Fall 1990.

Proponents of flat Class I pricing maintain that the marketplace should establish more of the value required to draw milk to fluid outlets than is reflected in the minimum prices established by the current Class I system. Increased reliance on the marketplace in determining a price has appeal because the competitive normal marketplace, where there are many buyers and sellers with equal market knowledge and power, is generally viewed as the most efficient determinant of values and prices.

The following table illustrates the differential-level impact on the suggested consolidated orders based on October 1995 data assuming a flat differential level of $1.60. As indicated in the table, a flat $1.60 differential level is significantly less than the calculated weighted average differential level in most marketing areas, except for the suggested Upper Midwest regional order.

TABLE 2.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 3A—FLAT DIFFERENTIALS

Suggested consolidated order [1]	New differential ($/cwt)	Weighted average differential ($/cwt) [2]	Change ($/cwt)
Northeast	1.60	3.14	−1.54
Appalachian	1.60	2.79	−1.19
Southeast	1.60	3.04	−1.44
Florida	1.60	3.89	−2.29
Mideast	1.60	1.91	−0.31
Central	1.60	2.52	−0.92
Up Midwest	1.60	1.32	0.28
Southwest	1.60	3.01	−1.41
Arizona-Las Vegas	1.60	2.46	−0.86
Western	1.60	1.84	−0.24
Pacific NW	1.60	1.90	−0.30

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated orders is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Analysis Based on Evaluation Criteria

In two of the nine evaluation criteria, the concept of a flat Class I price structure performs equal to the current Class I system. In all the other criteria, a flat Class I price structure performs worse than the current Class I price system.

Option 3A was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. A flat Class I price structure performs worse than the current Class I price structure in ensuring an adequate supply of milk for fluid use because it ignores the fundamental fact that Class I milk has different values depending on its location. As a result, the marketplace would have to establish all of the appropriate values of milk within and between markets. The current method of establishing Class I differentials reflects the sufficiency and availability of local milk supplies together with valuing alternative milk supplies. Because some milk is produced just about everywhere, a Class I differential needs only to be high enough to bring forth enough milk—''local'' and milk from alternative and more distant supply areas—at any location to meet Class I demand. The cost of transporting alternative milk supplies into an area places an upper limit constraint on the value of milk at that location and thus provides a measure by which to evaluate whether or not the differential level established is reasonable.

Under a flat Class I price plan, the assumption is made that the minimum differential value of Class I milk is the same at all locations. Reforming the Class I price structure should continue to recognize the observable and measurable fact that Class I milk has a location value. At all locations, the Class I differential value needs to represent a reasonable sum of such factors that, taken as a whole, accomplish the goal of assuring an adequate supply of milk to meet demands. In this context, there does not appear to be a sufficient economic rationale to apply a flat Class I differential value that may be appropriate to one market and apply it to all other markets. Doing so would not reflect the important and measurable characteristic that fluid milk takes on different relative value depending on where it is located and where it needs to go to satisfy demand. Therefore, the Class I milk pricing plan needs to establish a price level that provides sufficient economic incentives for the movement of Class I milk. Such a basis is consistent with the supply and demand pricing criteria of the AMAA.

2. Recognize quality (Grade A) value of milk. A flat Class I price structure does recognize the quality value (Grade A) of milk with the $1.60 flat differential.

3. Provide appropriate market signals. Because a flat Class I price option does not recognize the observable fact that milk has differing location values, it cannot provide the appropriate price signals to ensure that, in all markets, the differential level is sufficiently high enough to bring forth the amount of milk needed to satisfy demand. Additionally, a flat Class I price option does not provide appropriate market signals on how a deficit market can obtain needed supplemental milk supplies. For example, if the Class I price in Chicago is the same as Atlanta, where supplemental supplies are often needed, a flat Class I price provides no economic incentive to absorb the producer-incurred cost of moving milk to Atlanta. In this example, the total price incentives that would encourage milk to move must come from outside the pricing structure.

The following real-world intra-market example demonstrates problems with flat Class I pricing. In Texas, the cities of Dallas and Houston are major milk consumption centers. Dallas is located nearly equidistant (about 70 miles) from two major milk supply areas to the east and south. Houston is located much further (about 255 miles) from the same two milk supply areas and, like Dallas, relies on the same two milksheds for satisfying its Class I demands. A flat Class I price surface applicable to both cities does not, in and of itself, provide the price difference necessary to cause producers to deliver their milk to Houston. The additional dollars (value) that would need to attach to milk to cause it to be delivered to Houston would fall outside of the regulated price. Producers might not share in the value above the minimum regulated price if handlers have the market power to play one producer against another to lower prices. Because this additional value is not represented in a regulated price charged to handlers, a degree of market power is returned to handlers. Those producers located nearer to Houston would have no marketing alternative since they could only haul their milk greater distances to a manufacturing outlet for surplus disposal. Additionally, handlers at Houston would also be less certain of the price their competitors were paying for milk than they were with a regulated price that more adequately reflected different location values of milk. Location adjustments, which address such problems, could not be used under

a flat differential option since they would create disorderly marketing conditions at points where they bordered on neighboring orders.

Examining an inter-market example moves the analysis to one that is more regional and national in scope. Using prevailing Class I utilization rates between the Ohio and Carolina markets at an assumed flat Class I differential of $2.00 results in nearly no change in the blend price to producers in the Ohio market. However, in the higher Class I use Carolina market, producer blend prices are reduced by 81 cents, changing the blend price differences between the two markets from $1.27 (current blend price difference) to only 46 cents. Since the blend price provides the price signal to producers in a market to alter production, and should provide the incentive to move milk from the Ohio market to the Carolina market, the 46-cent price difference is simply not enough of a price signal difference to achieve this outcome.

4. Recognize value of milk at location. Flat Class I pricing does not fully recognize that milk has value at location. Instead, it assumes that all Class I milk has the same value at any location. To the extent that milk would take on additional value above a specified flat differential, that additional value would be determined by the marketplace and be outside of the minimum regulated value which is shared with producers. Research conducted by Cornell University suggests that Class I prices would vary in the absence of regulation on the basis of supply and demand conditions under assumptions of a rational, competitive market. Results of the USDSS model conclude that there is a location value for milk used in fluid uses and that value does not resemble a flat Class I price surface. Because flat Class I pricing does not fully recognize the value of milk at location, it can only be concluded that it does not perform as well as the current Class I price system.

5. Facilitate orderly marketing with a coordinated system of Class I prices. Flat Class I pricing does not assure orderly marketing with a coordinated system of Class I prices. Flat Class I pricing sets an equal value on Class I milk in all markets even when such a price is not warranted. Flat Class I pricing does not provide for coordination of Class I milk value on a national scale because the location value is not reflected in the regulated price but left for the producers and processors to individually negotiate.

6. Recognize handler equity with regard to raw product costs. Class I values that are location-based assure that handlers' costs for milk are more equitable and uniform. Because differential levels largely represent location value, adjusting the level by location relative to all other locations from the lowest point level (price alignment), assures that all handlers are paying the same relative price for their milk supply. The need or incentive for handlers to compete on the basis of the cost of a milk supply, otherwise a burden borne by dairy farmers, is mitigated because of the location adjustments on the minimum procurement prices paid by their competitors. Mitigated also is the possible disorder from price uncertainty for both handlers and producers. Because milk is valued on an equitable basis, handlers compete with each other on the basis of plant operations and on the basis of service to their customers.

Option 3A was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. The flat differential price structure performs equal to the current system in minimizing the regulatory burden on handlers because no additional information would be required under this option than is currently required.

2. Minimize the impact on small businesses. Flat Class I pricing can impact small businesses, both producers and handlers. Flat Class I pricing changes the competitive relationship between large and small handlers. Under the current Class I pricing system all handlers, regardless of size, compete equally on the cost of their milk supply. Under a flat pricing system, a large handler could have a greater competitive advantage in procuring a milk supply because it may be able to, in the short run, offer producers a price somewhat above the flat minimum level or above what a small handler is able to pay. Over a longer time period, the small handler might not be able to procure a supply of milk.

3. Provide long-term viability. An important objective in the reform of the Class I price structure is that the resulting price structure be viable for a longer period of time. Given the potential competitive problems associated with flat Class I pricing addressed above, a flat Class I price structure would seem to fail the criterion of offering an alternative that would endure.

Flat Class I pricing performs worse than the current system, raising a number of issues regarding its impact on dairy farmers. As Table 2 suggests, there is significantly less Class I revenue that could be shared with producers resulting in a lowering of producer blend prices everywhere. Only in the proposed Upper Midwest order would there be an increase, all other areas would lose revenue. However, even with the increase in the Class I differential in the Upper Midwest, given the relatively low Class I utilization of this market the actual change in producer blend prices would be much smaller than the change in the differential.

As discussed earlier, flat Class I pricing could effect small businesses, both producers and handlers, depending on where they are located and the magnitude of change in the Class I differential. Plants located further from significant surplus regions would experience losses. Similarly producers more distantly located would also experience significant revenue losses. Apparent advantages of a flat Class I price plan are the initial equity among all producers regardless of their location and the short-run potential for lower prices to consumers in areas that would experience a lowering of Class I prices. The long-run effect on producers in distant and generally milk deficit markets is unclear.

Because flat Class I pricing does not ensure an adequate supply of milk for fluid uses as well as the current system, it is unclear that over the long run consumers would actually enjoy lower milk prices. Should a flat Class I price structure negatively affect producer income, there is diminished certainty that the order program would ensure consumers with an adequate supply of milk at reasonable prices.

A problem in employing a flat Class I differential was demonstrated in the intra-market example discussed previously. Producers might not share in the value above the minimum regulated prices which more fully represents the value of Class I milk because handlers have the market power to obtain price concessions from producers. Likewise, those producers who are located more distant from the primary milk sheds could have reduced market power since the alternative would be to haul their milk greater distances to a manufacturing outlet for surplus disposal. Handlers at greater distances from the milkshed would be less certain of the price their competitors are paying for their milk supply than they were with a regulated price that more fully reflected the value of milk at location.

In the inter-market example also discussed earlier, flat Class I pricing introduces another variable, Class I utilization rates, into the increased market power transferred from the producer to the handler. Flat Class I pricing combined with Class I

utilization rates results in an insignificant change in the blend price paid to producers in an adequately supplied market. However, in higher Class I utilization and deficit markets, producer blend prices are significantly reduced. Since the blend price provides the price signal to producers in a market to alter production based on demand, and provides the incentive to move needed milk between two markets, the narrower price difference may not provide an adequate price difference for more adequately supplied markets to ship needed milk to deficit markets.

There are few real experiences on what might happen under a system of flat Class I differentials. The Mississippi milk order was voted out during May 1973 (38 FR 8751) through March 1976. In the absence of the order, ''flat'' pricing replaced classified pricing. Sharp variations in prices paid to producers by individual handlers developed as sales shifted from handler to handler within the market. Producers shifted from handler to handler, and milk that would otherwise have been used for manufacturing purposes was brought in from outside the state at lower prices and displaced the Class I marketings of local producers.

Finally, adoption of a flat Class I pricing plan was rejected by the Secretary in the recommended and final decisions of the 1990 National Hearing because it did not meet the supply and demand pricing standard of the AMAA, namely § 608c(18). In light of this statutory requirement that Federal milk order prices be established based on economic conditions that affect supply and demand, flat Class I pricing has no legal foundation.

Option 3B: Flat Differential Modified by Class I Use.

Under this option, an equal differential of $2.00 per hundredweight would apply in an order if the Class I use is less than or equal to 70 percent. If Class I use exceeds 70 percent, the Class I differential in an order would be $2.00 + $0.075* (Class I use percent—70 percent). This option is based on the flat Class I price concept modified by the relative use price concept. This option assumes that markets with Class I use equal to or below 70 percent have an adequate reserve supply of milk to meet fluid needs and that markets with Class I use above 70 percent require additional milk supplies to meet fluid demand. This 70 percent figure was merely selected for illustrative purposes and no analysis has been done to determine if this is an appropriate percentage.

A level of $2.00 per hundredweight for the flat portion of the differential was selected because such a level has been suggested in comments concerning the flat Class I price concept.

The differentials resulting from this option are listed in the table below. As with the relative use option (Option 2), the estimated Class I differentials presented in the table are not entirely location-specific within the consolidated order. To provide a basis for comparison, a weighted average differential for each order has been calculated based on current differentials for the consolidated orders using October 1995 data. These differentials are also not location-specific for the consolidated orders.

TABLE 3.—CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON OCTOBER 1995 DATA UNDER OPTION 3B—FLAT DIFFERENTIAL MODIFIED BY CLASS I USE

Proposed order [1]	Class I use (percent)	New differential ($/cwt)	Weighted avg diff [2] ($/cwt)	Change ($/cwt)
Northeast	47.9	2.00	3.14	−1.14
Appalachian	81.5	2.86	2.79	0.07
Southeast	85.2	3.07	3.04	+0.03
Florida	88.3	3.37	3.89	−0.52
Mideast	55.8	2.00	1.91	0.09
Central	48.8	2.00	2.52	−0.52
Upper Midwest	34.5	2.00	1.32	0.68
Southwest	48.1	2.00	3.01	−1.01
AZ-Las Vegas	48.9	2.00	2.46	−0.46
Western	29.6	2.00	1.84	0.16
Pacific NW	35.6	2.00	1.90	0.10

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk in each current order multiplied by the applicable current order differential.

Analysis Based on Evaluation criteria.

Of the nine evaluation criteria developed to evaluate Class I pricing options, the concept of a modified flat Class I price structure performs equal to the current system in two of the criteria and worse than the current system in the rest of the criteria. However, this option does perform marginally better than Option 3A in the three proposed southern orders. Nevertheless, Option 3B would still perform worse than the current system because the remainder of the proposed orders retain a purely flat differential.

Option 3B was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. The concept of a modified flat Class I price structure performs poorer than the current Class I price structure in ensuring an adequate supply of milk for fluid use for the same reasons articulated in Option 3A. In three of the suggested orders with over 70% Class I utilization, this option does give marginal increased recognition to the inherent location value of milk by relying on Class I utilization to trigger price incentives for attracting Class I milk. However, a majority of the suggested new orders continue to employ a lower and purely flat differential because Class I utilization does not exceed 70 percent. It is unlikely that an adequate supply of milk for fluid use would be ensured.

2. Recognize quality (Grade A) value of milk. A modified flat Class I price structure does recognize the quality (Grade A) value of milk with the $2.00 base differential.

3. Provide appropriate market signals. The concept of a modified flat Class I price structure that changes based on Class I utilization appears to provide marginally superior market signals in three of the proposed new orders than does the purely flat option. The modified flat Class I price structure offers the potential for being self-

adjusting in both deficit and adequately supplied markets as relative use changes. However, a majority of markets would maintain a purely flat differential and likely would experience the same problems that a flat Class I price structure presents. While the modified flat Class I price structure may provide more appropriate market signals by establishing economic incentives that will encourage milk to move to more deficit markets, it fails to provide appropriate market signals for a majority of the orders.

4. Recognize the value of milk at location. A modified flat Class I price structure, like Option 3A, does not fully recognize the location value of milk. As discussed in Option 3A and Option 2, the relative use adjustor to the flat differential only recognizes that a market with a certain utilization has an average value above markets that are more deficit and does not recognize the value of milk at location. In fact Option 3B assumes that milk has the same value in a majority of the orders. Because Option 3B does not fully recognize the value of milk at location, it does not perform as well as the current system.

5. Facilitate orderly marketing with coordinated system of Class I prices. Independently, both a flat Class I price structure and a relative use Class I price structure fail to provide a coordinated system of Class I prices. Hence, when the two price structures are combined in the modified flat Class I price structure it can be concluded that the combined price structure will not facilitate orderly marketing with a coordinated system of Class I prices. The flat differential portion imposes an equal value on Class I milk in all markets with less than a specified Class I utilization, in this example 70 percent, even when such a differential level is not warranted. Producers and processors are left to negotiate the real value of the milk resulting in an uncoordinated system of Class I prices. Then, when the relative use factor is utilized to adjust the prices, problems arise because of a lack of alignment between orders.

6. Recognizes handler equity with regards to raw product costs. Since both Option 3A and Option 2 do not adequately recognize handler equity with regards to raw product costs as well as the current system, this modified flat Class I price structure option similarly cannot recognize handler equity for raw product costs for the same reasons discussed in the analysis of the other individual options.

Option 3B was evaluated against the objective criteria as follows:

1. Minimize regulatory burden. The flat differential modified by Class I use concept performs equal to the current system in minimizing the regulatory burden on handlers because no additional information than what is currently required would be requested under this option.

2. Minimize the impact on small businesses. As with Option 3A a modified flat Class I pricing structure could have dramatic impacts on small businesses, both producers and handlers. Like Option 3A, the modified flat pricing concept changes the competitive relationship between large and small handlers. Large handlers in areas where the differential is flat would have a competitive advantage in procuring milk supplies over small handlers because they may be able to pay more than the flat price. In markets where the relative use modifier becomes effective, small handlers could further be at a competitive disadvantage to neighboring handlers merely required to pay the flat portion of the differential. Price variances between large and small producers are likely to increase as well. The analysis for this option is fundamentally the same as discussed previously in Option 3A and Option 2.

3. Provide long-term viability. Given the difficulties associated with Option 3A and Option 2, a system that combines the two into a Class I pricing structure would perform worse than the current Class I price structure.

Because a modified flat Class I pricing option performs worse than the current system and is so similar in application to a purely flat pricing structure, it too raises a number of issues regarding its impact on dairy farmers. These issues are nearly identical to those applicable to purely flat pricing. Using October 1995 data, almost 87 percent of all milk would have been in the eight markets with a flat price under this option. In the consolidated markets with utilization above 70 percent (Appalachian, Southeast, and Florida), this option, based on October 1995 data, would still lower Class I differentials in two of the three markets.

As with Option 3A, Option 3B would have a significant economic impact on a substantial number of small businesses depending on where they are located and the magnitude of the change from the current Class I differential. The estimated impact on consumers for this modified flat Class I pricing option is nearly identical to that presented in the Option 3A analysis.

The same problems presented and discussed in the analysis of Option 3A using both inter- and intra-market examples are applicable to Option 3B. These problems are exhibited for this modified flat pricing option. Using an intra-market example, producers would not likely share in the value above the minimum regulated prices that more fully represents the value of Class I milk because handlers would have the greater degree of market power. In the inter-market example, blend price differences would not provide adequate price differences for more adequately supplied markets to ship needed milk to deficit markets, although the modified flat option may perform marginally better than a purely flat differential structure.

Option 4: Demand-based Differential. Under this option, an equal differential would be applied in all orders and in defined demand centers an additional component would be added to reflect the cost of transporting milk from reserve supply areas to demand centers. The differentials would be adjusted periodically to reflect changes in supply/demand conditions.

One possible option of a demand-based differential concept was proposed by the Upper Midwest Dairy Coalition (UMDC). Under this proposal, a fluid supply area would be established for each market from which milk production around the major bottler locations is procured. Also, for each market, a reserve supply area would be established that would be outside the fluid supply area from which milk production is generally supplied to fluid handlers in the major fluid bottling locations.

The Class I differential for the reserve area under this proposal would be set at $1.00 per hundredweight. For fluid supply areas, the differential would be $1.00 plus transportation costs from the reserve area to the fluid demand area. Fluid handlers in the fluid supply area would pay the higher differential, and transportation and balancing credits would be drawn from the market order pool.

Using this demand-based option, a market with a 100-mile supply area would have a differential of $1.00 + ($0.35*1) = $1.35 (if the cost of transportation is 35 cents per hundredweight per 100 miles). A market with a 700-mile supply area, on the other hand, would have a differential of $1.00 + ($0.35*7) = $3.45. Monies paid by Class I handlers through the second part of the Class I differential would be used to fund the order's system of transportation credits and balancing payments. These transportation credits and balancing payments would be provided to organizations that supply the order's fluid market.

To encourage movement of the nearest milk supply for fluid use, two restrictions would be implemented. First, a handler's total transportation credits would be limited to the variable amount paid in by the handler for transportation. Secondly, a handler's total transportation credit would not exceed 80% of the handler's transportation bill on each Class I shipment or 2.8 cents per hundredweight per 10 miles (28 cents per 100 miles), whichever is less. Any residual left after paying transportation credits would be added to the $1.00 differential and paid to all producers in the pool.

While Class I handlers would be required to pay the established Class I price ($1.00 + transportation), from a producer point of view, this option is in essence a flat differential proposal. No amount over the $1.00 is guaranteed to return to producers in a blend price. Thus, this option suffers from the shortcomings of a flat differential option.

The table below contains a few examples of differentials that would apply to specific locations. These differentials are based on the furthest distance milk for fluid use is transported using the USDSS model solving for each consumption point individually. Such demand-based differentials would be established at every fluid milk processing location. UMDC has suggested that the USDSS model be used as a guide in establishing differentials and that expert judgment will be employed to adjust for proper alignment in pricing relationships.

TABLE 4.—CLASS I DIFFERENTIALS FOR SELECTED CITIES UNDER OPTION 4: DEMAND-BASED DIFFERENTIALS

Selected location	Current differential ($/cwt)	Demand-based differential ($/cwt)	Change ($/cwt)
Miami, FL	4.18	3.88	−0.30
Tampa, FL	3.88	2.05	−1.83
Orlando, FL	3.88	3.08	−0.80
New Orleans, LA	3.65	1.28	−2.37
Atlanta, GA	3.08	2.38	−0.70
New York City, NY	3.14	1.80	−1.34
Chicago, IL	1.40	1.49	0.09
Minneapolis, MN	1.20	1.11	−0.09
Phoenix, AZ	2.52	1.00	−1.52
Dallas, TX	3.16	1.40	−1.76
Denver, CO	2.73	1.19	−1.54
Portland, OR	1.90	1.13	−0.77
Seattle, WA	1.90	1.31	−0.59
Boise, ID	1.50	1.06	−0.44

Analysis Based on Evaluation Criteria

In eight of the nine criteria, Option 4 performs poorer than the current system. In the remaining criterion, Option 4 performs about the same as the current system.

Option 4 was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. In terms of ensuring an adequate supply of milk for the fluid market, proponents argue that the package of Class I differentials and pool structure established under this option would produce an adequate supply of milk for the fluid market. It is apparent, however, that the Class I differentials on their own would not. This is a prime function of Federal milk marketing orders. While Class I differentials should be set at the minimum level necessary to bring forth adequate milk supplies, Option 4 would not result in differentials that would perform this function. Substantial over-order values would be required in many areas to attract adequate milk supplies for fluid purposes plus a reserve. Over-order prices are useful tools for allowing the market to find the final value of Class I milk; however, it is Federal order Class I prices that must meet the basic tenets of the AMAA.

2. Recognize quality (Grade A) value of milk. As with all of the seven options, Option 4 does recognize the quality (Grade A) value of milk with the $1.00 base differential.

3. Provide appropriate market signals. The net result of Option 4 failing to provide Class I differentials that recognize an appropriate price level for milk at location is that appropriate market signals are not sent to market participants. Federal orders should provide known and visible prices to market participants at all locations. The net effect of Option 4 would be to provide frequently shifting prices to market participants that fail to provide appropriate market signals.

Currently, blend prices and changes in blend prices provide signals to producers to make production adjustments. Under this option, the transportation portion of the Class I differential (the amount above $1.00) would be paid to those responsible for transporting milk, while producers would be guaranteed only $1.00 on Class I milk. Thus, the option by design could send distorted price signals to producers in blend prices. At times when milk supply is plentiful, local fluid handlers may need to go a relatively short distance to procure milk. Thus, there may be residual transportation credit revenues in the pool to be paid to producers in the blend price signaling that supplies are short and more production is needed. However, when handlers bring milk in from long distances, all transportation credit revenue would be used up and producers would only share in the $1.00 differential indicating to producers that there are ample supplies of milk. Thus, blend prices could be lower when local supplies are tight than when local supplies are plentiful.

4. Recognize value of milk at location. Option 4 would result in differing Class I levels at different locations that may significantly underrepresent the true Class I value at many locations. This would force a greater portion of the true Class I value outside of the order structure. Moreover, higher or lower price levels for fluid milk in an area may not be reflected in Federal order blend prices to producers in the area due to transportation costs. In terms of blend prices, producers in all areas would share in $1.00 plus potentially a variable residual of their respective

differential. Hence, Option 4 performs worse than the current system.

5. Facilitate orderly marketing with coordinated system of prices. Another problem with Option 4 is that resulting Class I differentials are not coordinated across wide areas and thus do not facilitate orderly marketing. Milk, both packaged and bulk, moves long distances. Class I differentials should encourage milk to move in directions indicated by underlying economics, essentially from areas that have relative surpluses of milk to areas that are relatively deficit. Option 4 performs worse than the current system in this area.

6. Recognize handler equity with regard to raw product costs. Processor equity suffers under Option 4 because Class I over-order charges would need to increase in many areas. While it may be desirable for the market to set the final Class I price charged to bottlers, when a large portion of this price occurs outside of regulation, Federal orders cannot assure a reasonable degree of handler equity concerning prices paid for Class I milk. Additionally, the net effect of the Class I price paid by handlers less the transportation credits received would likely create inequity among handlers.

Option 4 was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 4 would increase the regulatory burden on handlers as compared to the present system. Additional reporting on sources of milk and transportation costs would be required. Fluid handlers would be required to report, and Market Administrators to verify, hauling cost information on each load of bulk milk received. This additional regulatory requirement may also result in an increase in administrative assessments to handle the additional record verifications.

2. Minimize impact on small business. It is likely that small handlers might be disadvantaged by this option. With demand-based differentials, a substantial part of the Class I value needed to attract adequate milk supplies would likely come from over-order payments. Federal order Class I prices are mandatory and should affect handlers in an area equally. Over-order pricing is not mandatory and may or may not affect different handlers equally. The potential exists under Option 4 for large handlers to have an advantage over small handlers in competing for milk for Class I purposes because they will be able to outbid smaller handlers for a supply of milk.

3. Provide long-term viability. Option 4 would involve Class I differentials that could change over time as milk supply/demand conditions change. As such, the system could remain viable for a long period of time if the problems outlined above did not jeopardize the viability of this proposal. There is a certain attractiveness to a system which is self-adjusting. The difficulty is in deriving a system where the self-adjusting feature stays current over time.

This proposal could have a significant impact on various sectors of the dairy industry. The impact would likely vary by region, with large impacts on regions where Class I differentials would change significantly and lesser impacts in regions with small changes in Class I differentials. The impacts by region are discussed below:

Midwest. Class I differentials in the Midwest would be similar to current differentials under Option 4. In addition, the vast majority of milk produced in the Midwest is used for manufactured products, not for Class I. As such, the impact on producers and processors would be expected to be relatively small. Producer groups and cooperatives in this area fully recognize that, due to low Class I utilization in this area, changes in Class I differentials will have relatively less impact here than in other areas which have higher rates of Class I utilization.

Northeast. In the Northeast, Class I differentials would be substantially reduced from current levels under Option 4. For example, the Class I differential in New York City would be $1.34 less than the current differential, while the Class I differential in Baltimore would be $1.80 less than under the current system. Producer organizations in the Northeast have historically had a difficult time enforcing Class I over-order charges significantly above Federal order minimums. Cooperatives have depended heavily upon Federal order minimums, and more recently upon the Northeast Dairy Compact, to try to maintain revenues from Class I sales.

Processors in this area have historically had significant marketing power over cooperatives. Substantial drops in Class I differentials would likely increase processor marketing power and prevent cooperatives from establishing over-order prices that would reflect the full Class I value thus, dairy farmers would see a decline in their revenue.

Producer income levels in this area would be expected to decrease with a resulting decline in producer numbers, milk production and, eventually, manufacturing capacity. The decline in manufacturing capacity, over time, would likely be the most significant impact on the processing side of the industry in the Northeast.

Southeast. In the Southeast, Class I differentials would be substantially reduced from current levels under Option 4 in many areas. For example, the Class I differential in Atlanta would be set at $0.70 less than the current system, while the Class I differential in New Orleans would be $2.37 less than under the current system. It is unclear if over-order charges in most parts of the Southeast could be increased enough to compensate for the drop in Federal order Class I differentials. Thus, producer income and milk production would be expected to decrease in total in this area. Much of this area is deficit of milk production and, at certain times of the year, for fluid needs. Dropping the Class I differentials substantially would likely increase this deficit and make it increasingly difficult to meet the AMAA requirements for meeting the needs of the fluid market.

Southwest. In the Southwest, Class I differentials would be substantially reduced from current levels under Option 4. For example, the Class I differential in Dallas would be set at $1.76 less than the current system, while the Class I differential in Denver would be $1.54 less than under the current system. It is unlikely that over-order charges in most parts of the Southwest could be increased enough to compensate for the drop in Federal order Class I differentials. Thus, producer income and milk production would be expected to decrease in total in this area. The impacts would likely vary within this region as lower production costs in West Texas and New Mexico could offset the drop in Class I revenues, but higher production cost areas (e.g., East Texas) would likely show substantial drops in milk production.

Pacific Northwest. In the Pacific Northwest, Class I differentials would be reduced from current levels under Option 4 in many areas. For example, the Class I differential in Portland, Oregon, would be set at $0.77 less than the current system, while the Class I differential in Seattle would be $0.59 less than under the current system. It is unlikely that over-order charges in most parts of the Pacific Northwest could be increased enough to compensate fully for the drop in Federal order Class I differentials.

This proposal would, all else being equal, result in lower blend prices to producers in most parts of the country. It is expected that mailbox prices to producers would also decline in most regions. The vast majority of producers pooled on Federal orders are considered

as small businesses. Thus, this proposal would have a negative impact on small business producers through a loss of income.

In addition, it is expected that in regions that are deficit of milk for some or all uses, an increased reliance on over-order prices would result from this proposal. Experience has shown that in an unregulated or partially-regulated environment, such as where substantial over-order premiums are paid, large producers often have greater leverage with milk buyers than small producers. This advantage can take many forms including volume premiums, lower hauling rates, and the ability to negotiate individually with handlers in a manner difficult for small producers.

This proposal could likely increase the regulatory burden on handlers that are small businesses. Maintenance of transportation credit records and increased verification that may be required could burden small business handlers. Moreover, setting Class I differentials at levels significantly below the full economic value of Class I milk at location has the impact of deregulating the effective price of Class I milk. As such, small handlers would be competing for milk supplies with large handlers with no assurance of similar prices. Equity among handlers is one of the benefits of the Federal order system. By setting Class I differentials at a level well under the full economic value, some of the handler equity is lost. It is expected that such a scenario would provide a greater burden on small business handlers than on large business handlers.

It is difficult to quantify the impact to consumers under this option. Federal order Class I differentials around the country would likely be lower than under the current system at many locations. Increased over-order charges may make up part of the difference, at least at locations with strong supply organization cooperation. It is expected that the overall impact on consumer prices would be slight.

Option 4 presents certain attractive provisions when viewed as a theoretical model for establishing Class I differentials. While it is intellectually appealing to have frequently adjusting Class I differentials, this type of proposal contains significant challenges to actual implementation. A substantial set of calculations would be necessary, together with strong assumptions regarding transportation costs, to determine Class I differentials under this option. The proponents of Option 4 utilized the USDSS model to estimate their Class I differentials. Proponents were unclear as to the specific points for calculating transportation. Arguably, the distance from each farm to each distributing plant that the farm supplies, as well as the distance from each supply plant or reserve processing plant to each distributing plant, would need to be determined.

Option 4 is not a pure pricing concept, but an allocation of costs. It proposes ''Class I differentials'' at location, thereby intimating value of milk at location. However, such a surface conclusion is erroneous when it becomes operational. It essentially becomes a flat price proposal insofar as milk value (price) is concerned.

This option in essence proposes that regulators intervene in the contractual relationships among producers, processors and haulers. Rather than creating a system whereby producers are paid a price for a product (valued to include all costs of producing and delivering the product to market), this proposal seeks to administratively isolate transportation cost and reimburse that cost at a fixed rate. To attempt to intervene in marketplace relationships in this way, particularly under the umbrella of price, does not seem appropriate.

As a result of this analysis, it is concluded that Option 4 would merely result in a greater degree of regulation with less money returned to producers. Thus, based on the issues discussed, Option 4 is not further considered as a replacement for the Class I price structure.

Based on the qualitative analysis, three pricing options were selected for further quantitative analysis. The Department determined that the three options selected represented a broad spectrum of possible Class I price structures. These three options are Option 1A, Option 1B, and Option 5.

To further analyze these options, beyond the evaluation criteria and basic quantitative analyses, a multi-regional model of the U.S. dairy sector, developed by the Economic Research Service of USDA, was used to generate both the ''model baseline'' results and analysis of the three pricing options. The model has been specified to generate a long-term outlook that is consistent with the Department's official baseline forecast for the dairy sector. The model baseline serves as a benchmark for comparing price and income changes of an option. For example, price impacts are reported as differences from the baseline for each of six years (1999–2004) and from the 6-year average. A more detailed explanation of the model and the economic impact results are included in the initial regulatory impact analysis.[24]

Based on this analysis, Option 5 was eliminated from further consideration as a viable replacement for the Class I price structure. Although Option 5 appeared appealing in the qualitative analysis, the quantitative analysis revealed that Option 5 would create an unsustainable situation, based on the degree of increased price levels, given the dynamics of milk marketing. The analysis of Option 5 follows:

Option 5: Decoupled Baseline Class I Price with Adjustors. Option 5, as proposed by Mid-America Dairymen, Inc. (Mid-Am), is a price structure that would decouple Class I prices from the volatility of the commodity markets. Since the Class I price would be decoupled from the basic formula price, the proponents suggest that 1996 average Class I prices become the base, with adjustments made utilizing changes in fluid use rates and short term costs of production (i.e., feed costs). Thus, for Class I purposes the BFP would be floored at $13.63 per hundredweight, the 1996 annual average BFP. This price level would be used to establish Class I prices using current differentials.

A supply/demand adjustor would be used to change prices in each of the orders to reflect long-term trends. Proponents suggest using a 12-month rolling average Class I utilization, rounded to the nearest full percentage. Class I prices would be adjusted by $0.12 per hundredweight for each 2 percent change in the rolling average utilization. For example, a Class I utilization change from 44 percent to 46 percent in a market would result in a $0.12 per hundredweight gain in the market's Class I differential. Once the utilization level changes, the new utilization rate becomes the base for future changes. Thus, if a market falls from 44 percent to 42 percent, the new base for comparing a 2-percentage point change up or down is 42 percent.

In addition to the supply/demand adjustor, a cost of production indicator would be developed whereby Class I prices would be increased in a timely manner when input costs to dairy farmers are increasing. One such economic indicator might be feed costs.

The table below illustrates the initial Class I differentials under the proposed consolidated orders. These differentials are not location-specific within the applicable orders. For purposes of this

[24] Copies of this analysis can be obtained from Dairy Programs at (202) 720–4392, any Market Administrator office, or via the Internet at http://www.ams.usda.gov/dairy/.

analysis and to provide a basis for comparison within the proposed consolidated orders, a weighted average Class I differential for each order has been calculated for each order based on October 1995 data. This weighted average differential is computed by multiplying the percentage of Class I milk in each of the current orders that comprise the consolidated order by the applicable current order differential and adding the resulting amounts. The weighted average differential is not location-specific for the consolidated orders. Initially the differentials will be the same. However, as Option 5 impacts production and utilization, and when an economic indicator (such as feed costs) is calculated, the differentials will vary.

TABLE 5.—INITIAL CLASS I DIFFERENTIALS IN PROPOSED ORDERS BASED ON 1995 DATA UNDER OPTION 5: DECOUPLED BASELINE CLASS I PRICE WITH ADJUSTORS

Proposed order [1]	Weighted average differential ($/cwt) [2]	Initial differential ($/cwt)	Change in differential ($/cwt)
Northeast	3.14	3.14	0.00
Appalachian	2.79	2.79	0.00
Southeast	3.04	3.08	0.00
Florida	3.89	3.89	0.00
Mideast	1.91	1.92	0.00
Central	2.52	2.41	0.00
Up Midwest	1.32	1.41	0.00
Southwest	3.01	3.01	0.00
AZ-Las Vegas	2.46	2.46	0.00
Western	1.84	1.84	0.00
Pacific NW	1.90	1.90	0.00

[1] Based on the 11 proposed orders contained in this proposed rule.
[2] Weighted average differential for the consolidated order is computed by summing the product of the percentage of Class I milk for each current order multiplied by the applicable current order differential.

Analysis Based on the Evaluation Criteria

Option 5 performs about equal to the current system in five of the nine evaluation criteria. The option performs poorer than the current system in the other four evaluation criteria.

Option 5 was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. With a high baseline and a supply/demand adjustor (and possibly an economic adjustor), Option 5 performs on a national level about the same as the current system, particularly in the short term.

2. Recognize quality (Grade A) value of milk. As with all of the options, Option 5 does recognize the quality (Grade A) value of milk. Use of the current differentials to achieve the Class I price recognizes this value.

3. Provide appropriate market signals. Option 5 decouples the Class I price from the basic formula price and thus the commodity market. A rolling average Class I utilization is proposed as the appropriate measure of supply/demand. A rolling average further delays any market signal sent by Class I utilization. Moreover, the option proposes to change the Class I price only when the rolling average utilization changes by 2 percent or more. Option 5 essentially freezes prices, albeit, at a historically high level. In fact, it appears to suggest that the market signal for fluid use milk should be fairly static.

Proponents have suggested an economic indicator (feed cost adjustor) of some kind be used to adjust prices short term. While it is likely true that inclusion of such an index would mute declines in milk prices when feed costs are rising, market driven declines in milk prices also could be accelerated if feed costs were declining at the same time. Thus, even combined with a supply/demand adjustor, this option would not perform as well in providing appropriate market signals as the current system.

4. Recognize value of milk at location. Option 5 would include the current system of differentials. Therefore, this option does recognize the value of milk at location and performs as well as the current system.

5. Facilitate orderly marketing with coordinated system of Class I prices. As long as no adjustment is made to the baseline prices, alignment would be maintained fairly well. However, Option 5 has no provision to align prices when price changes occur. A possible $0.24 price spread between two markets within one month could exist. Moreover, misaligned prices could create disorderly conditions as industry participants between and among the markets seek other measures to regain alignment in prices. Hence, Option 5 performs worse than the current system because it would lead to disorderly marketing conditions.

6. Recognize handler equity with regard to raw product costs. As long as no adjustment is made to the baseline prices, handler equity would be maintained fairly well. Option 5 does ignore the relationship of handlers in adjacent markets. If prices are increased or decreased in a market, the handler regulated in an adjacent market may be affected by the misalignment of prices. Misaligned prices could create disorderly conditions as industry participants between and among the markets seek other measures to regain alignment in prices.

Option 5 was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 5 is not likely to increase the regulatory burden on handlers when compared to the current system. The addition of adjustors would create some additional burden on regulators; however, this would not be substantial.

2. Minimize impact on small business. Option 5 performs worse than the current system with regards to small businesses. It is likely that the individual market supply/demand adjustor will create some disruption in inter-market price alignment over time. Such a system may result in the need for over-order charges in some markets. Small handlers would likely be affected in their ability to compete with large handlers for a raw milk supply.

3. Provide long-term viability. The use of a historic baseline price as the major portion of a price fails to factor into the

competitive price of milk any of the influences of the national milk market. It ignores advances in technology and increased efficiencies. In addition, it fails to recognize trends in the overall economy such as inflation and interest rates. Thus, this option does not provide long-term viability.

Upon implementation, all Class I differentials would be equal to current differentials. With the baseline utilizations established at 1996 levels, producers would experience Class I price increases since 1996 was a record high year for milk prices. Every existing order area would see increases in Class I prices of $0.85 per hundredweight above the baseline in the initial year. However, even with this increase, some producers may see declines in blend prices as a result of the proposed consolidation of orders contained in this proposed rule.

Initially, Option 5 would not have a significant impact on the competitiveness of small businesses, producers, or processors because prices would remain relatively the same. However, as the supply/demand adjustor modifies the differentials based on changes in Class I utilization, price alignment between markets will become an issue that would affect a small business' ability to compete. This option would increase the retail cost of fluid milk in the initial year or two but would lower the cost of manufactured dairy products.

This option appears attractive on the surface since higher Class I prices will help most producers. If utilization and feed costs do not move abruptly, or if the feed cost formula is designed in such a way as to moderate any abrupt price movements, then variability in Class I prices would be moderated. However, it seems likely that milk prices will be increasing or decreasing in the same direction as feed prices (i.e., higher feed prices means less milk production thus higher milk prices, lower feed prices means more milk production thus lower milk prices.)

Another attractive feature of this option is that the use of a feed cost adjustor would adhere to requirements of the AMAA that the Department consider such costs and other economic conditions in the establishment of prices. In addition, an automatic utilization adjustor could reduce the need to have hearings to change Class I differentials if changes in production or consumption in an area make the existing differentials inappropriate.

Although attractive on the surface, further analyses of Option 5 reveals significant problems. First, analysis completed by the multi-regional ERS model indicates that the increase in prices experienced will not be sustainable. The results of the model analysis indicate that the higher floored Class I prices will impact the all-milk price, and after 3 years, producers will begin seeing a decrease in the revenue initially generated by Option 5. This will occur because the higher Class I prices will stimulate milk production, which will then lead to lower manufacturing prices. Because it is the blend price that is paid to producers, the increase in the Class I prices will not be enough to offset the decrease in prices of the other classes of use and the changes in utilization which will affect the differential level. Further details of the model results are included in the economic impact analysis published in conjunction with this proposed rule.

Next, Option 5 may cause disorderly marketing with the introduction of inter-market disparities based on temporary changes in use. Producers in high Class I markets would benefit at the expense of producers in low Class I markets. In addition, flooring the Class I price will shift volatility to milk prices in manufacturing markets. If the feed cost adjustor only affects Class I prices, high utilization markets will gain relative to producers in lower Class I use markets, who would also bear the higher feed costs.

Finally, Option 5 uses current differentials to establish Class I prices. Although, the 1990 hearing resulted in changes to many of the current Class I differentials, many of the current differentials are similar to those that were prescribed in the 1985 Farm Bill. Thus, arguments could be made that using the current 1996 Class I differentials as a base for a new Class I pricing surface runs counter to the 1996 Farm Bill mandate that the new Class I differentials cannot be based on the differentials described in the 1985 Farm Bill.

As discussed, Option 5 will create several problems if implemented as a Class I price structure. Furthermore, questions arise as to whether or not Option 5 is legal as it may violate the mandates of the 1996 Farm Bill. Finally, proponents may no longer be actively supporting this option as a viable replacement for the Class I price structure. Thus, based on this qualitative and quantitative analysis, Option 5 is eliminated from further consideration as a Class I price structure replacement.

With the elimination of Option 5, only two Class I price structure options remain as possible replacements for the current Class I price structure, Option 1A and Option 1B. These two options present national price structures developed utilizing the USDSS model. The options vary in their reliance and application of the USDSS model but both are based on economic principles contained within the model. Both price structures have been evaluated qualitatively against the evaluation criteria and quantitatively utilizing the multi-regional ERS model discussed earlier. In addition to analysis conducted by the multi-regional ERS model, a static Federal order pool analysis has been conducted for Option 1A and Option 1B to provide an estimate of how the options would have impacted producer prices during October 1996. The results of the pool analyses will be addressed in a discussion comparing the two price structures.

It should be noted that both Option 1A and Option 1B may require additional fine-tuning of the Class I differentials and adjustments for location when actual implementation of the selected price structure occurs within the Federal order program. However, this fine-tuning would only slightly alter the impacts of either option. The price surfaces presented provide a reasonable indication of the level of Class I differentials that may result under each price surface.

Option 1A: Location-Specific Differentials. Option 1A would establish a nationally coordinated system of location-specific Class I price differentials reflecting the relative economic value of milk by location. An important feature of the option is that it would also include location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of defined milk marketing area boundaries or order pooling provisions. It is based on the economic efficiency rationale presented in Cornell University research on the U.S. dairy sector.[25] A basic premise of Option 1A, confirmed by the Cornell research, is that the value of milk varies according to location across the United States. Option 1A combines these concepts of spatial price value and relative price relationships together with marketing data and expert knowledge of local conditions and

[25] Pratt, James E., Phillip M. Bishop, Eric M. Erba, Andrew M. Novakovic, and Mark W. Stephenson, ''A Description of the Methods and Data Employed in the U.S. Dairy Sector Simulator, Version 97.3,'' Research Bulletin 97–09, A Publication of the Cornell Program on Dairy Markets and Policy, Department of Agricultural, Resource, and Managerial Economics, Cornell University, July 1997.

marketing practices to develop a national Class I price structure.

Compared to other Class I price structure options which have been proposed by interested parties and/or are under consideration by the Department, this option reflects the current Class I pricing surface more than the others. Although similar to the current Class I price surface, there are distinct differences.

Under Option 1A, Class I differentials are lowest in geographical areas evidencing the largest supplies of milk relative to local/regional fluid milk needs. The differentials become progressively higher as they move from these areas to markets with less production relative to demand for fluid milk. Nine differential zones provide the basis for establishing the price structure. These zones were established based on results of the USDSS model, knowledge of current supply and demand conditions, and recognition of other marketing conditions such as fluid versus manufacturing markets, urban versus rural areas, and surplus versus deficit markets.

Class I differentials under this option range from a low of $1.60 per hundredweight in the base zones of the Upper Midwest, Southwest, and West, where there are abundant supplies of milk in excess of fluid milk use, to a high of $4.30 per hundredweight in Florida, where there are deficit supplies of milk for fluid use, thus reflecting the location value of milk for fluid use. The nine zones, differential ranges, and basis for establishing the Class I differential levels are as follows:

Zone 1. The suggested differentials within Zone 1 range from $1.60 to $1.90 per hundredweight. Geographically this zone is very large and encompasses the entire Northwestern United States. It consists of Washington, Oregon, Montana, Idaho, Northern and Central California, Northern and Western Nevada, Northern and Western Wyoming, and Northern Utah.

The area defined includes the top milk production state as well as two more of the top ten milk producing states. Milk production in this region has grown and continues to do so. Milk production in this zone tends to be concentrated in three areas: Western Washington and Oregon, the Southern Valley of Idaho and Northern Utah, and the Central Valley of California. Due to the numerous mountain ranges it encompasses, much of the zone is rural and sparsely populated. The exception is the heavily populated Western Coastal areas.

Class I utilization for this zone is fairly low and a significant amount of manufacturing is required to balance the markets. Manufacturing facilities are readily accessible in the milk producing areas. Zone 1 has excess supplies of milk, and therefore, could be an additional source of milk for other regions of the country.

It is expected that Zone 1 will continue to maintain adequate supplies of milk for the Northwestern United States. The supplies of milk are within relatively short distances of plants thus not requiring significant location adjustments within the zone.

Zone 2. The suggested differentials within Zone 2 would range from $1.60 to $2.65 per hundredweight. Zone 2 is a large region encompassing the Southwestern United States. It consists of Arizona, New Mexico, Colorado, Southern California, Southeastern Nevada, Southern Utah, Southeastern Wyoming, Southwestern Kansas, West Texas, and the Panhandle of Oklahoma.

The area defined includes portions of two of the top ten states in milk production as well as two more in the top twenty. Milk production in this zone has grown significantly over the last several years, but has recently slowed. Milk production in this zone tends to be concentrated in five areas: the Southern Valley of California, the Phoenix area of Arizona, North Central Colorado, the El Paso area of Texas and New Mexico, and the Roswell area of New Mexico. Much of this region is rural and sparsely populated due to the mountainous and arid terrain. The only heavily populated area is the Coastal region of Southern California. For the rest of the zone, populated areas tend to congregate around the capital cities of the Southwestern states.

Class I utilization for this area is slightly greater than the average for the United States. Manufacturing is needed to balance these markets; however, only a limited number of plants are located within the zone. Milk supplies in the zone are ample for Class I demand, but not always within a short distance of these needs. Distant manufacturing facilities are used at times for balancing. Other regions of the country have relied on this zone as a supplemental supply source. However, a slight change in the manufacturing capacity of this zone could change milk availability for other regions. Some location adjustments are needed for alignment purposes with the more deficit markets to the East.

Zone 3. The suggested differentials within Zone 3 would range from $1.60 to $1.80 per hundredweight. Geographically this zone encompasses the Upper Midwest region including the states of Minnesota, Wisconsin, Iowa, and North Dakota, the Michigan Upper Peninsula, and parts of South Dakota, Nebraska, Missouri, and Illinois.

This zone includes two of the nation's top five milk producing states, Wisconsin and Minnesota, as well as the substantial milk supplies available in parts of surrounding states. The vast majority of milk in Zone 3 is used for manufacturing purposes throughout the year. In addition, as was readily apparent in the fall of 1996, this area provides large quantities of milk to distant markets at times of shortages for fluid purposes in those markets. The $1.60 differential equates to the Class I differential in base zones to the Southwest and West that also use substantial quantities of milk for manufacturing purposes throughout the year. The 20-cent range provides some flexibility in setting Class I differentials that align with neighboring zones and in encouraging shipments to high Class I demand areas within the zone.

In addition, a Class I differential of $1.60 to $1.80 in this zone will provide a greater incentive for manufacturing organizations in this zone to pool milk. Historically, there have been small pool draws (that at times fluctuate between positive and negative) and negative location adjustments. Generally, over-order charges have been required to ensure adequate milk supplies for fluid purposes. Hence, the additional revenue generated in this region will be used to move some of these over-order charges under the Federal order program in the form of transportation credits. As a result, the $1.60 to $1.80 Class I differentials will help to establish higher pool draws and enable more market participants to share in the benefits of servicing the fluid market.

For a number of years, prevailing over-order charges in this zone have resulted in effective Class I prices to fluid milk processors that are well above the Federal order minimums herein proposed. Thus, Class I processors should see no increase in their milk procurement costs, but would likely only see a partial redistribution of their costs from over-order charges to Federal order obligations.

Zone 4. The suggested differentials within Zone 4 would range from $2.65 to $3.65 per hundredweight. Geographically, this zone is fairly small and primarily covers two states: Louisiana, west of the Mississippi River, and central and east Texas.

The zone defined has a significant amount of milk production and population. Texas ranks as the sixth largest milk-producing state and is the second most populated. Milk production in this zone is concentrated in two areas: East of Dallas and

Southwest of Dallas. Population centers are spread throughout the region with significant population along the Gulf Coast of Texas and Louisiana.

Class I utilization is moderately high and the zone has primarily been considered a fluid market. Much of the manufacturing in this zone is based on weekly and seasonal balancing. Excesses tend to be limited to Spring flush periods while Fall usually brings a deficit. Local demand along the Southern Coastal area requires supplies to travel significant distances to meet fluid demands. Seasonal deficits are handled by various other regions of the country.

The differential range proposed is needed to move milk supplies south and east to align with Southeastern deficit markets. Zone 4 may depend increasingly on milk suppliers from other regions of the country. However, the range of differentials suggested should be adequate to maintain a local milk supply.

Zone 5. The suggested differentials within Zone 5 range from $2.00 to $3.00 per hundredweight. Geographically, this zone ranges from Maine in the east to Oklahoma and southeastern Kansas in the west. The zone encompasses parts of the milk-producing areas of New York and Pennsylvania and the more dispersed production in the eastern mountains, the Ohio and mid-Mississippi River basins, and reaches into the southwestern United States. This zone is populated with a mix of rural areas plus a number of medium-sized metropolitan areas. The suggested price flow is generally from north to south and from west to east within this long narrow zone.

The range of differentials from $2.00 to $3.00 provides a transition from the surplus areas of the North and West to the deficit areas of the Southeast.

Zone 6. The suggested differentials within Zone 6 range from $3.00 to $3.75 per hundredweight. Geographically this zone encompasses all of South Carolina, most of the states of North Carolina, Georgia, Alabama, Mississippi, and parts of Louisiana and Florida.

This is a zone of deficient milk supplies and declining milk production. This zone contains many rural areas with a heavy concentration of population along a corridor from Raleigh, North Carolina, to Atlanta, Georgia. It is a zone which currently has a high Class I utilization and little access to manufacturing milk facilities.

The differentials increase moving toward the south and southeastern parts of Zone 6. The Atlantic and Gulf Coast areas are also in the higher end of the range because these areas are not heavy milk production areas. Zone 6 may depend increasingly on milk supplies from outside the areas; however, the differential range proposed should be adequate to provide a milk supply to meet the fluid demand in the zone.

Zone 7. The proposed differentials within Zone 7 range from $3.75 to $4.30 per hundredweight. Geographically it encompasses all of the lower two-thirds of Florida. Annual milk production in the zone does not meet Class I needs or provide an adequate volume. Milk supplies needed to meet the demand in this zone are procured from distant areas of the country. The price increases as the surface moves from north to south allowing milk to move to the deficient areas of Florida. Population density relative to viable milk-producing areas within this zone is creating increasing land-use pressure. The differentials proposed should be adequate to attract necessary milk supplies to meet the fluid demand.

Zone 8. The suggested differentials within Zone 8 range from $1.80 to $2.00. The zone covers parts of 12 states ranging from the southwest corner of South Dakota to the western corner of New York. This zone, together with parts of Zone 5, form an intermediate area between Zone 3, where milk is used primarily for manufacturing purposes, and Zones 4, 6, 7, and 9, where milk is used primarily for Class I purposes.

The price range in this zone would provide for alignment with markets to the north, south, and east, and set differentials at a level that would recognize the supply/demand conditions in this area. Alignment of Zone 8 with neighboring zones, particularly to the east and south, minimizes disruptions to the existing competitive relationships for Class I handlers in these areas.

Zone 9. The proposed differentials in Zone 9 range from $3.00 to $3.25 per hundredweight. Geographically Zone 9 encompasses the north Atlantic coastal area of the United States. The zone includes the major cities of Boston, New York, Philadelphia, Baltimore, and Washington, D.C. The differentials in Zone 9 allow for recognition of the need to move milk to major metropolitan areas on the Atlantic coast. The 25-cent range will provide the pool structure to compensate for individual locations within a narrow geographic area.

Zone 9 represents a major consumption area. The zone will need to look to the milk production areas north and west of the cities for milk supplies. The differentials proposed for this zone should allow the area to maintain adequate milk supplies relative to fluid demand.

This price variance in Class I differentials across the country presented in Option 1A is less than the range in relative values for milk (i.e., shadow prices) determined through the USDSS model and lower than the difference in the current price structure. The range of differentials developed by the USDSS model is $3.60 based on October 1995 data, typically a more deficit month, and $3.40 based on May 1995 data, typically a more surplus month. The price spread for Option 1A is $2.70. The ranges discussed above are set forth in Map 1. The differentials adjusted for location established for each county are set forth in Maps 2A, 2B, and 2C. Table 6 sets forth examples of differentials adjusted for location at selected cities.

TABLE 6.—COMPARATIVE CLASS I DIFFERENTIALS ADJUSTED FOR LOCATION AT SELECTED CITIES UNDER OPTION 1A—LOCATION-SPECIFIC DIFFERENTIALS

City	Class I differential		Difference
	Current	Option 1A	
	Dollars per hundredweight		
New York City, NY	3.14	3.15	.01
Charlotte, NC	3.08	3.10	.02
Atlanta, GA	3.08	3.10	.02
Tampa, FL	3.88	4.00	.12
Cleveland, OH	2.00	2.00	.00
Kansas City, MO	1.92	2.00	.08
Minneapolis, MN	1.20	1.70	.50

TABLE 6.—COMPARATIVE CLASS I DIFFERENTIALS ADJUSTED FOR LOCATION AT SELECTED CITIES UNDER OPTION 1A—LOCATION-SPECIFIC DIFFERENTIALS—Continued

City	Class I differential		Difference
	Current	Option 1A	
Chicago, IL	1.40	1.80	.40
Dallas, TX	3.16	3.00	(.16)
Salt Lake City, UT	1.90	1.90	.00
Phoenix, AZ	2.52	2.35	(.17)
Seattle, WA	1.90	1.90	.00

Analysis Based on Evaluation Criteria

Option 1A performs equal to or better than the current Class I system in each of the evaluation criteria. This is largely explained by the adjustments made to the current system based on current marketing conditions and USDSS model results. However, Option 1A leaves essentially unchanged the role of market forces and the Federal government, in determining Class I prices and the incentives to move milk to deficit areas.

Option 1A was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. Option 1A performs essentially the same as the current price structure in ensuring an adequate supply of milk for fluid use. Proposed changes from current differential levels by region or locality to more accurately reflect current milk supply-demand conditions and inter-market price alignment contributes to more appropriate market by market supply adjustments. Option 1A will have minimal impacts on farm level milk prices and should continue to ensure adequate supplies of milk for fluid use.

2. Recognize quality (Grade A) value of milk. Option 1A does recognize the quality value (Grade A) of milk through the addition of a differential that begins at $1.60 per hundredweight in the base zone.

3. Provide appropriate market signals. Option 1A adjusts and refines the existing Class I price structure to more accurately reflect recent prices. In some geographical areas, Class I differentials would be modestly increased. In certain other areas, Class I differentials would be lowered somewhat, suggesting that they now exceed levels necessary to adequately supply the associated markets with their fluid milk needs.

4. Recognize value of milk at location. The spatial values of milk as reflected in Option 1A recognize the value of milk at location more accurately than the current system for two principal reasons. First, in structuring the differentials in Option 1A, the effect of current Class I differential levels on milk supplies, demand, and dairy farmer returns regionally during the past decade were reviewed. Second, the results of the USDSS model, explained previously, that obtained the relative values of milk and milk components at geographic locations throughout the United States, were used. Together, the results of these studies provided the basis to construct the Option 1A price surface.

5. Facilitate orderly marketing with coordinated system of prices. A primary element of Option 1A is the coordination of Class I differential levels and location adjustments within and among regional marketing areas. As such, Option 1A is an improvement over the current price structure which evolved in a piecemeal fashion. The Class I differentials and location adjustments in Option 1A will facilitate orderly marketing of milk for fluid use through the nationwide coordination of prices.

6. Recognize handler equity with regard to raw product costs. Class I differentials proposed under Option 1A reflect differences in economic costs of procuring and marketing milk depending upon geographic location. This coordination and alignment of prices based upon cost differences and current marketing conditions better ensures handlers of equity in competing for available milk supplies and sales of fluid milk products.

Option 1A was evaluated against the objective criteria as follows:

1. Minimize regulatory burden. Option 1A would not change the regulatory burden of the Federal order program. Because Option 1A is similar to the current Class I pricing structure, it would not result in increased reporting, record keeping, compliance, or administrative costs to handlers. The role of regulation in influencing Class I prices would also be about the same as the current system.

2. Minimize impact on small businesses. In regions where more of the actual value of fluid milk would be reflected in the differentials than is currently reflected, small businesses may have a marginal improvement in their relative competitive bargaining position vis-a-vis large businesses. This is based on the concept that large businesses (producers, cooperatives or handlers) are better able to negotiate premiums above minimum order prices due to advantages attained from size. Overall, this option is not expected to materially impact small businesses differently than the current price structure.

3. Provide long-term viability. To the extent the proposed location adjusted Class I differentials under Option 1A will correct instances of price misalignment and more accurately reflect the economic value of milk by location, the long-term viability of Option 1A is expected to exceed that of the current price structure.

Option 1A utilizes the USDSS model results as a basis for development. All results, including the preliminary results based on 1993 annual data and the preliminary results based on May 1995 and October 1995 data, were used. However, the variance of price differentials under Option 1A are somewhat less than the range in relative values of milk (shadow prices) determined through the USDSS model. There are several explanations for the differences, including the fact that the model generates value differences between geographic locations, not actual prices. That is, it computes the marginal value of an additional hundredweight of milk supplied to a plant at a specific location for fluid use. This approach results in a pricing or value surface for Class I milk but does not take into account marketwide pooling and other factors affecting the supply of and demand for milk.

Since the USDSS model only determines the spatial value differences for fluid milk between location and not the price level, Option 1A utilizes $1.60 as the minimum price in the three base zones. Currently, the lowest differential in Federal orders is $1.04 ($1.20 in Minneapolis) in the Upper Midwest order.

A review of current marketing practices has revealed that the $1.04 per

hundredweight base zone differential may not be established at a level high enough to ensure adequate milk supplies for fluid use. First, a portion of the Class I differential must reflect the value associated with maintaining Grade A milk supplies since this is the only milk available for fluid use. Originally the differential needed to be established at a level that would encourage conversion from Grade B to Grade A status. With approximately 96 percent of all milk already converted to Grade A,[26] this value now needs to reflect the cost of maintaining Grade A milk supplies. Although it may be difficult to quantify the cost to maintain Grade A status, there are specific associated costs, as described below.

There are several requirements for producers to meet to convert to a Grade A dairy farm and then maintain it. A Grade A farm requires an approved water system (typically one of the greatest conversion expenses), specific facility construction and plumbing requirements, certain specifications on the appearance of the facilities, and specific equipment. After achieving Grade A status, producers must maintain the required equipment and facilities, and adhere to certain management practices.[27] Often, this will require additional labor, resource, and utility expenses. It has been estimated that this value may be worth approximately $0.40 per hundredweight.[28]

Traditionally, the additional portion of the Class I differential reflects the marketing costs incurred in supplying the Class I market. These marketing costs include such things as seasonal and daily reserve balancing of milk supplies, transportation to more distant processing plants, shrinkage, administrative costs, and opportunity or ''give-up'' charges at manufacturing milk plants that service the fluid Class I markets. This value has typically represented approximately $0.60 per hundredweight.

Originally recognizing these two factors in the base zone was sufficient to bring forth enough milk to meet Class I demands given the abundant volumes of milk and the abundance of manufacturing plants. However, recognizing just these two factors at the values specified may no longer be adequate to ensure sufficient supplies of Class I milk in the Upper Midwest region.

The Upper Midwest region is considered a surplus market for fluid use because its average Class I utilization is only approximately 20 percent.[29] However, as a result of the abundance of manufacturing facilities that require milk, the Upper Midwest region is actually a highly competitive area in which to procure Grade A milk. Because of this competitiveness, manufacturing facilities are willing to pay more than the Federal order minimum price, the basic formula price (BFP), for Grade A milk used in manufactured products. For example, during 1995, Minnesota manufacturing plants paid, on average, $0.77 per hundredweight more than the BFP for Grade A milk; price premiums in excess of the BFP ranged from $0.38 per hundredweight in June to $1.24 per hundredweight in December. In 1996, the average pay price for Grade A manufacturing milk in Minnesota was $0.94 per hundredweight more than the BFP, ranging from $0.68 per hundredweight in October to $1.18 per hundredweight in November. Similar pay price patterns occur in Wisconsin for Grade A milk used in manufactured products. In 1995, the average pay price for Grade A milk used in manufacturing was $0.85 per hundredweight more than the BFP, with pay prices ranging from $0.55 per hundredweight above the BFP in July to $1.22 per hundredweight in December. During 1996, the average pay price for Grade A milk used in manufacturing was $0.93 per hundredweight more than the BFP, ranging from $0.82 per hundredweight (January) to $1.10 per hundredweight (September). Table 7 sets forth specific data for pay prices for Grade A milk used in manufacturing for 1995 and 1996.

TABLE 7.—COMPARISON OF PRICES PAID FOR GRADE A MILK USED IN MANUFACTURING PRODUCTS IN MINNESOTA AND WISCONSIN TO THE BASIC FORMULA PRICE

Year/Month	Basic formula price	Minnesota		Wisconsin	
		Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price	Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price
	$ /hundredweight				
1995:					
January	11.35	12.13	0.78	12.24	0.89
February	11.79	12.56	0.77	12.63	0.84
March	11.89	12.52	0.63	12.64	0.75
April	11.16	11.77	0.61	11.92	0.76
May	11.12	11.67	0.55	11.79	0.67
June	11.42	11.80	0.38	12.07	0.65
July	11.23	11.81	0.58	11.78	0.55
August	11.55	12.14	0.59	12.14	0.59
September	12.08	12.95	0.87	13.04	0.96
October	12.61	13.66	1.05	13.74	1.13
November	12.87	14.11	1.24	14.09	1.22
December	12.91	14.12	1.21	14.13	1.22

[26] Milk Production, Disposition and Income, 1996 Summary, National Agricultural Statistics Service, USDA, DA 1–2 (97).

[27] References: *Grade ''A'' Pasteurized Milk Ordinance*, 1993 Revision, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration and *General Instructions for Performing Farm Inspections According to the USDA Recommended Requirements for Manufacturing Purposes and Its Production and Processing For Adoption by State Regulatory Agencies*, USDA, AMS, Dairy Division, August 1, 1976.

[28] This is the value associated with Class I milk. The amount of this value actually returned to a producer is dependent upon a marketing order's Class I utilization and is reflected in the blend price. For example, in the proposed Upper Midwest order approximately $.06/hundredweight would be returned to producers to cover the costs associated with maintaining Grade A milk supplies.

[29] Federal Milk Order Statistics, 1996 Annual Summary, USDA, Marketing and Regulatory Programs, Agricultural Marketing Service, Dairy Division, Statistical Bulletin 938.

TABLE 7.—COMPARISON OF PRICES PAID FOR GRADE A MILK USED IN MANUFACTURING PRODUCTS IN MINNESOTA AND WISCONSIN TO THE BASIC FORMULA PRICE—Continued

Year/Month	Basic formula price	Minnesota		Wisconsin	
		Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price	Grade A pay price @ 3.5% [1]	Diff. between BFP and grade A pay price
Average	11.83	12.60	0.77	12.68	0.85
1996:					
January	12.73	13.78	1.05	13.55	0.82
February	12.59	13.56	0.97	13.44	0.85
March	12.70	13.68	0.98	13.72	1.02
April	13.09	14.01	0.92	14.11	1.02
May	13.77	14.57	0.80	14.65	0.88
June	13.92	14.71	0.79	14.78	0.86
July	14.49	15.32	0.83	15.39	0.90
August	14.94	16.00	1.06	15.96	1.02
September	15.37	16.33	0.96	16.47	1.10
October	14.13	14.81	0.68	15.06	0.93
November	11.61	12.79	1.18	12.47	0.86
December	11.34	12.39	1.05	12.18	0.84
Average	13.39	14.33	0.94	14.32	0.93

[1] Fluid Grade A pay price for milk used in all manufacturing products in Minnesota and Wisconsin as reported by the National Agricultural Statistic Service adjusted by butterfat differential used under Federal milk orders.

Because manufacturing facilities are willing to pay these values above the BFP to ensure adequate supplies of milk into their plants, fluid processors must pay at least these values to attract the necessary supplies of fluid milk to the bottling plants. Although data indicating the exact value that fluid plants are willing to pay to ensure this supply is not published, an indication of the market value of this milk can be obtained from the announced cooperative Class I prices.[30] Other than in Miami, Florida, which is a deficit Class I market with a 1996 annual average Class I utilization of nearly 90 percent,[31] the announced cooperative Class I prices are the highest in the Upper Midwest region. These prices range from $1.19 per hundredweight above the minimum Class I price in Minneapolis, Minnesota, to $1.79 per hundredweight above the minimum Class I price in Milwaukee, Wisconsin, and Chicago, Illinois.

Option 1A presumes that the $1.04 per hundredweight minimum Class I differential is no longer adequate to ensure a sufficient supply of milk due to the competitive nature of the manufacturing facilities in this region. Thus, Option 1A establishes an additional competitive factor into the development of the base zone Class I differential. Option 1A values this competitive factor to be worth about $0.60 per hundredweight. This value reflects approximately two-thirds of the actual competitive costs incurred by fluid plants to simply compete with manufacturing plants for a supply of milk.

An additional benefit of establishing the minimum Class I differential at a level that more accurately reflects the actual value of milk for fluid purposes is the added monies generated in the Federal order pool. Class I milk provides the vast majority of pool value in Federal orders. If an order has a low Class I differential and a low Class I utilization, it frequently does not have enough pool value to provide proper price signals to pool participants. In these orders, the Class I price is established by the suppliers of milk at levels above the Federal order minimums. When these over-order markets dictate substantially higher prices than the order minimums there is a risk that handlers may not face equal raw product costs for various reasons. Thus, having a larger proportion of the actual value of Class I milk in the market order pool in these areas, than is now the case, should promote pricing equity among market participants. The $1.60 minimum differential level proposed is perceived to be the lowest value necessary under present supply and demand conditions to maintain stable and viable pools of milk for Class I use in markets that are predominantly manufacturing oriented. Applying this minimum differential to each of the three low pricing areas will ensure that low utilization and surplus markets will have similar differentials. However, having a larger portion of Class I value pooled could mute price signals to producers more than prices determined strictly by market forces. If the blend price exceeds the marginal value of milk in manufacturing, there would be an incentive to overproduce for fluid needs.

Quantitative analysis using the ERS multi-regional model which assumed the eleven market order consolidation, four classes of utilization, and the BFP as proposed, suggests that most producers for the 6-year average would see little to modest changes in revenue due to Class I price increases resulting from Option 1A when compared to the baseline. However, some producers would experience Class I price decreases. Producers located in the following Federal milk markets would experience revenue reductions due to average Class I price decreases: New Mexico-West Texas—($0.19/cwt), Eastern Colorado—($0.12/cwt), Central Arizona—($0.11/cwt), Southwest Plains—($0.11/cwt), and Texas—($0.10/cwt). All other orders for the 6-year average would have a Class I price increase. The Chicago Regional, Michigan Upper Peninsula, and Upper Midwest orders would experience the largest increases: $0.46, $0.51, and $0.56 per hundredweight, respectively.

Overall, the magnitude of price and income changes under Option 1A is small when compared to the baseline. Option 1A results in a 10-cent increase in the average Class I price for all current Federal orders. Further details

[30] Table 35—1996 Annual Average Announced Cooperative Class I Prices in Selected Cities, Dairy Market Statistics, 1996 Annual Summary, USDA, AMS.

[31] Federal Milk Order Statistics, 1996 Annual Summary, USDA, Marketing and Regulatory Programs, Agricultural Marketing Service, Dairy Division, Statistical Bulletin 938.

of the impact of these Class I price changes on the all-milk price and cash receipts based on the model results are available in the economic analysis statement.

Option 1B—Relative Value-Specific Differentials. Option 1B establishes a nationally coordinated system of relative value-specific Class I price differentials and adjustments that recognizes several low pricing areas. Option 1B relies on a least cost optimal solution from the USDSS Cornell model to develop a Class I price structure that is based on the most efficient assembly and shipment of milk and dairy products to meet all market demands for milk and its products.

The results of the USDSS model provide information regarding the relationship of prices between geographic locations but do not determine the level of Class I differentials. Option 1B utilizes geographic relationships as its foundation and maintains the current Class I differential of $1.20 at Minneapolis, Minnesota. A location adjusted price differential for every county is established by evaluating differences between nearby Class I differential pricing points generated by the model. The marginal values (shadow prices) are used to determine the price structure because they reflect the value of additional milk supplied to a plant at a specific location for fluid use. This price surface recognizes several low pricing areas located primarily in the Upper Midwest and Western regions.

Option 1B would move the dairy industry into a more market-oriented system. By establishing differentials on the basis of optimal milk movements, market conditions will play a greater role in determining Class I prices. To the extent that higher Class I prices are needed and negotiated to attract milk supplies, the higher prices will accrue to those producers who service the fluid market. Hence, Option 1B places more emphasis on negotiations between dairy farmers and processors to determine actual Class I prices. The location adjusted differentials established for each county are set forth in Maps 3A, 3B, and 3C and in General Provisions § 1000.52. Table 8 sets forth the location adjusted differentials at selected cities.

TABLE 8.—COMPARATIVE CLASS I DIFFERENTIALS AT SELECTED CITIES UNDER OPTION 1B-RELATIVE VALUE-SPECIFIC DIFFERENTIALS

City	Current	Option 1B	Difference
	Dollars per hundredweight		
New York City, NY	3.14	2.07	(1.07)
Charlotte, SC	3.08	1.89	(1.19)
Atlanta, GA	3.08	2.46	(0.62)
Tampa Bay, FL	3.88	3.81	(0.07)
Cleveland, OH	2.00	1.54	(0.46)
Kansas City, MO	1.92	1.45	(0.47)
Minneapolis, MN	1.20	1.20	0.00
Chicago, IL	1.40	1.65	0.25
Dallas, TX	3.16	1.68	(1.48)
Salt Lake City, UT	1.90	1.08	(0.82)
Phoenix, AZ	2.52	1.14	(1.38)
Seattle, WA	1.90	1.00	(0.90)

Because Option 1B would involve changes in both the level of Class I differentials and the method for establishing them, it is proposed that they be implemented through a transitional phase-in program. The use of a phase-in program would provide dairy farmers and processors the opportunity to adjust marketing practices to adapt to more market-determined Class I prices.

Three possible alternatives are presented for phasing in Option 1B. Each utilizes the difference between the current differentials and the Option 1B differentials as the basis of the phase-in over a 5-year period, beginning in 1999 and being completed by 2003. The first transitional option simply spreads the phase-in over the 5-year period, with 20 percent of the adjustment in 1999, 40 percent in 2000 and so forth. The base differentials resulting from this transitional phase-in are set forth in Table 9. The first alternative would be to phase-in to these differentials as shown in Table 9.

TABLE 9.—OPTION 1B BASE DIFFERENTIALS

City	Current	Option 1B—Base differentials [1]				
		1999	2000	2001	2002	2003
	Dollars per hundredweight					
New York City, NY	3.14	2.93	2.71	2.50	2.28	2.07
Charlotte, NC	3.08	2.84	2.60	2.37	2.13	1.89
Atlanta, GA	3.08	2.96	2.83	2.71	2.58	2.46
Tampa Bay, FL	3.88	3.87	3.85	3.84	3.82	3.81
Cleveland, OH	2.00	1.91	1.82	1.72	1.63	1.54
Kansas City, MO	1.92	1.83	1.73	1.64	1.54	1.45
Minneapolis, MN	1.20	1.20	1.20	1.20	1.20	1.20
Chicago, IL	1.40	1.45	1.50	1.55	1.60	1.65
Dallas, TX	3.16	2.86	2.57	2.27	1.98	1.68
Salt Lake City, UT	1.90	1.74	1.57	1.41	1.24	1.08
Phoenix, AZ	2.52	2.24	1.97	1.69	1.42	1.14

TABLE 9.—OPTION 1B BASE DIFFERENTIALS—Continued

City	Current	Option 1B—Base differentials [1]				
		1999	2000	2001	2002	2003
Seattle, WA	1.90	1.72	1.54	1.36	1.18	1.00

[1] Base differential obtained by taking the difference between the current differential and the final Option 1B differential (year 2003) and multiplying by 20 percent. This value is then subtracted from the current differential to yield the 1999 base differential. This value is then deducted from each consecutive year's value until the Option 1B differentials are achieved in 2003.

The second alternative for phasing-in Option 1B would consist of adding a decreasing ''transitional payment'' to the base differential. It would be equal to the decrease in revenue that would otherwise occur during the phase-in period of Option 1B. Over this four-year period, it is projected that $388.6 million would be removed from the Federal order system through the lowered Class I differential. To provide the industry an opportunity to prepare for the changed pricing structure under Option 1B, a transitional payment would be added to the base differential for Class I milk. The payment would be higher in the first year and gradually be reduced thereafter to result in implementation of the Option 1B differentials in 2003. The additions to the base differential would equal $0.55 per hundredweight in 1999, $0.35 per hundredweight in 2000, $0.20 per hundredweight in 2001, and $0.10 per hundredweight in 2002. This offsetting of revenue is designed to temporarily reduce the impacts of implementing Option 1B, thus allowing producers an opportunity to adjust their marketing practices to adapt to more market-determined pricing. Table 10 sets forth the location adjusted Class I differentials under this revenue-neutral phase-in alternative for selected cities.

TABLE 10.—OPTION 1B CLASS I DIFFERENTIALS WITH REVENUE NEUTRAL PHASE-IN PAYMENTS

City	Current	Class I diff. with revenue neutral				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars per hundredweight					
New York City, NY	3.14	3.48	3.06	2.70	2.38	2.07
Charlotte, NC	3.08	3.39	2.95	2.57	2.23	1.89
Atlanta, GA	3.08	3.51	3.18	2.91	2.68	2.46
Tampa Bay, FL	3.88	4.42	4.20	4.04	3.92	3.81
Cleveland, OH	2.00	2.46	2.17	1.92	1.73	1.54
Kansas City, MO	1.92	2.38	2.08	1.84	1.64	1.45
Minneapolis, MN	1.20	1.75	1.55	1.40	1.30	1.20
Chicago, IL	1.40	2.00	1.85	1.75	1.70	1.65
Dallas, TX	3.16	3.41	2.92	2.47	2.08	1.68
Salt Lake City, UT	1.90	2.29	1.92	1.61	1.34	1.08
Phoenix, AZ	2.52	2.79	2.32	1.89	1.52	1.14
Seattle, WA	1.90	2.27	1.89	1.56	1.28	1.00

[1] 1999 applicable base differential from Table 9 plus $0.55.
[2] 2000 applicable base differential from Table 9 plus $0.35.
[3] 2001 applicable base differential from Table 9 plus $0.20.
[4] 2002 applicable base differential from Table 9 plus $0.10.
[5] Final Option 1B differentials.

The third approach to phasing in Option 1B would consist of adding a decreasing ''transitional payment'' to the base differential that would enhance revenue beyond what the current Class I system would have generated during the four years of transitioning to Option 1B. During this four-year period, it is projected that $878.4 million would be added to the Federal order system through the revenue-enhanced payment. This would result in a net increase of $489.8 million added to the system once the projected decrease resulting from Option 1B phased in during this period is deducted. This additional money would not only provide producers with an opportunity to prepare and restructure their marketing practices to adapt to more market-determined pricing but would also allow them to obtain the education and resources necessary to become more effective in a more market-oriented environment. Again, the payment in the first year would be the highest with reductions occurring thereafter to result in implementation of the Option 1B differentials by 2003. The addition to the base differential would equal $1.10 per hundredweight in 1999, $0.70 per hundredweight in 2000, $0.40 per hundredweight in 2001, and $0.20 per hundredweight in 2002. Table 11 sets forth the location adjusted Class I differentials under this revenue-enhanced alternative for selected cities.

TABLE 11.—OPTION 1B CLASS I DIFFERENTIALS WITH REVENUE ENHANCED PAYMENTS

City	Current	Class I diff. with revenue enhancement				
		1999 [1]	2000 [2]	2001 [3]	2002 [4]	2003 [5]
	Dollars Per Hundredweight					
New York City, NY	3.14	4.03	3.41	2.90	2.48	2.07
Charlotte, NC	3.08	3.94	3.30	2.77	2.33	1.89
Atlanta, GA	3.08	4.06	3.53	3.11	2.78	2.46
Tampa Bay, FL	3.88	4.97	4.55	4.24	4.02	3.81
Cleveland, OH	2.00	3.01	2.52	2.12	1.83	1.54
Kansas City, MO	1.92	2.93	2.43	2.04	1.74	1.45
Minneapolis, MN	1.20	2.30	1.90	1.60	1.40	1.20
Chicago, IL	1.40	2.55	2.20	1.95	1.80	1.65
Dallas, TX	3.16	3.96	3.27	2.67	2.18	1.68
Salt Lake City, UT	1.90	2.84	2.27	1.81	1.44	1.08
Phoenix, AZ	2.52	3.34	2.67	2.09	1.62	1.14
Seattle, WA	1.90	2.82	2.24	1.76	1.38	1.00

[1] 1999 applicable base differential from Table 9 plus $1.10.
[2] 2000 applicable base differential from Table 9 plus $0.70.
[3] 2001 applicable base differential from Table 9 plus $0.40.
[4] 2002 applicable base differential from Table 9 plus $0.20.
[5] Final Option 1B differentials.

Analysis Based on Evaluation Criteria

Option 1B performs equal to or better than the current system when combined with a phase-in program option because it provides the industry time to adapt to a more market-oriented system.

Option 1B was evaluated against the objective criteria as follows:

1. Ensure an adequate supply of milk for fluid use. Option 1B suggests lower differentials than current levels in most of the proposed markets when using a $1.20 differential at Minneapolis, Minnesota. Option 1B relies more on the use of over-order premiums in many areas to attract adequate milk supplies for fluid purposes. Over-order prices are useful tools for allowing the market to find the final value of Class I milk, and Option 1B would ensure an adequate supply of milk for fluid use by rewarding those producers who service the Class I market needs. The use of ''transitional payment'' alternatives would ensure an adequate supply of milk for fluid purposes by providing the industry time to adapt to adjust their marketing practices in adapting to more market-determined pricing.

2. Recognize quality (Grade A) value of milk. Option 1B recognizes the quality (Grade A) value of milk through the use of a differential added to the basic formula price.

3. Provide appropriate market signals. Under Option 1B, greater reliance is placed on market forces to establish prices which will allow for clearer transmission of supply and demand signals between producers and consumers than does the current system.

4. Recognize value of milk at location. Option 1B does recognize the value of milk at location. Option 1B is based on the least cost movement of milk and dairy products based on the May 1995 results of the USDSS model. Thus the resulting price structure reflects the most efficient assembly and transportation of milk and dairy products and performs better than the current system.

5. Facilitate orderly marketing with coordinated system of prices. Like Option 1A, Option 1B also establishes a coordinated system of differentials and location adjustments that sets a minimum value for Class I milk in every county. Prices will be aligned within and among orders, thereby facilitating orderly marketing of milk.

6. Recognize handler equity with regard to raw product costs. Class I differentials proposed under Option 1B reflect differences in economic costs of procuring and marketing milk depending on geographic location. This coordination and alignment of minimum prices provides an equitable foundation upon which handlers can compete for available milk supplies and sales of fluid products in a more market-oriented environment.

Option 1B was evaluated against the administrative criteria as follows:

1. Minimize regulatory burden. Option 1B would not change the regulatory burden of the Federal order program in terms of reporting, recordkeeping, compliance, and administrative costs to handlers. The role of regulation in determining minimum prices would be reduced, as more responsibility would be placed on market forces.

2. Minimize impact on small businesses. Under Option 1B, a substantial part of the Class I value needed to attract adequate milk supplies would likely come from over-order payments negotiated outside the Federal order system.

Smaller, less efficient businesses would likely have a greater responsibility under Option 1B to bargain with processors for over-order premiums that adequately cover their costs. With processors less likely to face similar raw product costs, less efficient small processors may have to negotiate and/or sustain over-order price levels necessary to attract and maintain a sufficient supply of milk, while efficient large businesses may be in a better competitive position to do this. The use of a transitional payment program would help provide less efficient small businesses make the needed investments to move to a more competitive position in the market.

3. Provide long-term viability. When Option 1B is combined with one of the transitional phase-in program options, the long-term viability of Option 1B is increased and is expected to exceed that of the current price structure. Gradually moving from a regulated system to one that is less regulated will require adaptation of all entities within the dairy industry. A transitional period will allow market participants to make necessary adjustments in marketing practices to continue in the industry for years to come.

Option 1B would establish a market-oriented approach to Class I pricing, by reducing the traditional role the Federal order program has maintained with regards to Class I pricing. Historically the Class I price established under Federal orders represented the

minimum value of Class I milk in the marketplace based on the cost of maintaining Grade A milk and additional marketing costs with the cost of alternative milk supplies placing an upper limit on this value. Option 1B provides an opportunity for free-market conditions to determine more of the value of fluid milk, but prices would still be undergirded by minimum prices based on the best available estimates of milk transportation costs. Ultimately, Option 1B should promote more market efficiencies; however, adjustments will be required by both producers and processors.

Quantitative Analysis

Using ERS multi-regional model analyses of the 11 order consolidations, four classes of utilization, and a Class I price mover as proposed, suggests that most producers would experience lower prices, when compared to the baseline, if Option 1B were phased-in with no transition assistance. The 6-year average Class I price in all current Federal order markets would decline $0.37 per hundredweight. However, producers located in the Chicago Regional, Upper Midwest, Iowa, Central Illinois, Tampa Bay and Southeastern Florida orders would benefit from Class I price increases ranging from $0.07 to $0.28 per hundredweight. Producers in all other current orders would experience losses of revenue because of Class I price decreases ranging from $0.03 to $1.07 per hundredweight. The smallest decline occurs in the Upper Florida order with the greatest declines occurring in the current Carolina ($ − 0.68), Middle Atlantic ($ − 0.72), Southwest Plains ($ − 0.76), Central Arizona ($ − 0.80), Texas ($ − 0.87) and Eastern Colorado ($ − 1.07) orders.

Both the increases and decreases are mitigated somewhat by the amount of milk used in Class I. Thus no market would see declines in the all-milk price in excess of $0.60 per hundredweight. Further details of the impact of these Class I price changes on the all-milk price and cash receipts based on the model results are available in the economic analysis statement.

Because current Federal order producers and processors have developed and designed their marketing practices based on the existing Class I price structure which has been in place for several years, moving immediately to a more market-oriented system could be disruptive for some producers and handlers. To reduce this marketplace disruption, Option 1B has been analyzed by the ERS multi-regional model in conjunction with transitional phase-in program alternatives from the current differentials.

The revenue-neutral phase-in alternative from current differentials to Option 1B differentials would minimize the impact of Option 1B during the phase-in period. Through a gradual phase-in, both producers and processors would be given time to adjust their marketing practices in preparing for the new minimum Class I price levels. Results of the model analysis indicate that almost all producers would experience increased revenue because of Class I price increases during the first revenue-neutral phase-in year when compared to the baseline. In fact, the Class I price would be higher in all but one of the current Federal order markets. The price increases range from $0.25 per hundredweight to $0.59 per hundredweight and for all 32 Federal order markets the average first year Class I price would be up $0.39 per hundredweight. In year two, producers located in 25 of the Federal order markets would continue to experience increased revenue because of Class I price increases compared with the baseline ranging from $0.01 per hundredweight to $0.48 per hundredweight. In year three, 17 orders would experience Class I price increases compared with the baseline. By year four, only the Florida, Upper Midwest, and parts of the Central areas would remain with price increases from the baseline.

Like the revenue-neutral phase-in, the revenue-enhancement phase-in would provide producers and processors a period of time to adjust their marketing practices in preparing for the new minimum price levels by initially providing payment assistance. The use of the revenue-enhancement phase-in option would provide producers with additional income to adjust their operations and obtain necessary education and resources to prepare for a more market-oriented system.

Results of the ERS multi-regional model indicate that during the first year, all current orders would experience Class I price increases over the baseline. In year two, all but one order would have increased Class I prices. By year three, 21 orders would continue to experience increases. During year four, 11 orders would maintain a Class I price increase over the baseline, while 21 orders would have price decreases of between $0.01 per hundredweight and $1.05 per hundredweight. Further details of the model results for both transitional payment program options are available in the economic analysis statement.

Comparison of Options 1A and 1B

Option 1A and Option 1B have similarities but rely on differing methods to establish a Class I price structure. First, both options recognize that milk has a location value. Secondly, both options establish a price surface that assigns a price to every county in the United States. Currently, a price at any particular location may vary depending upon the order under which the milk is pooled. Finally, both options utilized the USDSS model results to establish the price surface.

Although similar in these respects, the two pricing options differ on several issues. First, the options differ on the level at which Class I differentials are established. Option 1A is based on the premise that Class I differentials be established at a minimum price that reflects more closely the current value of the Class I milk based on local supply and demand conditions and agency judgement on the costs of obtaining alternative supplies of milk. Option 1B relies on the premise that a lower minimum price should be established strictly on the basis of the best available estimates of transportation costs to provide for a more market-oriented structure that allows dairy farmers and processors more freedom to negotiate fluid milk price levels.

Second, the two options differ in how the price surface should be established regardless of the level. Option 1A provides for a surface that is smoother and flows primarily from north to south and west to east. Option 1B establishes a price surface that is flatter throughout a majority of the United States and then increases significantly in the deficit milk production areas of the Southeast. A comparison of the price surfaces established under Options 1A and 1B from Minneapolis to Miami demonstrates this difference.

The total distance from Minneapolis to Miami is approximately 1775 miles. Since Atlanta is the first major metropolitan center located in the Southeast order, and is considered a deficit area, a review of the two price surfaces between Minneapolis and Atlanta and Atlanta and Miami highlights the differences in the price surface pattern. The distance between Minneapolis and Atlanta is about 1110 miles, or 63 percent of the total distance. The distance between Atlanta and Miami is approximately 665 miles, or 37 percent of the total distance.

Under Option 1A the differential established in Minneapolis is $1.70 per hundredweight and $1.20 per hundredweight under Option 1B. The Option 1A differential in Atlanta is

$3.10 per hundredweight and under Option 1B, the differential is $2.50 per hundredweight. The Class I differential in Miami under both options is about $4.30 per hundredweight. The difference in differentials between Minneapolis and Atlanta under Option 1A is $1.40 per hundredweight and $1.30 per hundredweight under Option 1B. The difference in differentials between Atlanta and Miami under Option 1A is $1.20 per hundredweight and $1.80 per hundredweight under Option 1B. The total difference between Minneapolis and Miami under Option 1A is $2.60 per hundredweight and $3.10 per hundredweight under Option 1B.

Under Option 1A, the change in differentials from Minneapolis to Atlanta represents 54 percent of the total $2.60 differential change with the differential changes from Atlanta to Miami representing 46 percent of the change. This helps to demonstrate that Option 1A results in a smoother, more evenly dispersed Class I price surface from north to south.

Under Option 1B, the change in differentials from Minneapolis to Atlanta represents about 42 percent of the change whereas between Atlanta and Miami, 58 percent of the differential change is reflected in only 37 percent of the total distance. As demonstrated, Option 1B results in a price surface that is flatter over a greater portion of the United States and significantly steeper in the deficit areas of the Southeast.

Third, the options differ in their reliance on the USDSS model results. Option 1A recognizes the value associated with the model results but incorporates judgement on existing specific marketing conditions and practices to make adjustments to the model results. Option 1B, on the other hand, utilizes the most recently available USDSS model results to reflect optimal values for fluid milk at different locations that will promote market efficiencies within the dairy industry.

To further compare and analyze the impacts of Options 1A and 1B on producers and processors, static Federal order pool analyses were completed. The pool analyses, although static, provide some indication on how the revenue will be distributed in the newly consolidated pools given the pricing structure. The pool analyses are based on October 1996 data. The analyses utilized all producer milk in each of the current Federal milk order pools. The classification of producer milk, including Class III–A milk, remained as it is currently classified under each order. The data were collected for all plants and prices and were adjusted for location. These data were then combined into the 11 proposed orders, and the pools were re-computed to reflect the impacts on the uniform price of consolidation only and then to reflect the impacts of consolidation combined with Option 1A and Option 1B price surfaces. Class II, Class III, and Class III–A and the basic formula price were held at the actual prices for October 1996. Table 12 sets forth the results of the analyses.

TABLE 12.—CONSOLIDATION PLUS OPTION 1A AND OPTION 1B PRICE STRUCTURE IMPACTS ON PROPOSED ORDERS' ESTIMATED UNIFORM PRICES—OCTOBER 1996

Proposed order	Estimated uniform price			Difference between pool impacts of consolidation plus options 1A & 1B and consolidation	
	Consolidation only (Col. 1)	Cons. plus option 1A (Col. 2)	Cons. plus option 1B (Col. 3)	Col. 2 – Col. 1	Col. 3 – Col. 1
	$/hundredweight				
Northeast	16.55	16.60	16.07	0.05	(0.48)
Appalachian	17.27	17.57	16.53	0.30	(0.74)
Southeast	17.12	17.12	16.69	0.00	(0.43)
Florida	18.52	18.55	18.37	0.03	(0.15)
Mideast	15.95	16.01	15.64	0.06	(0.31)
Upper Midwest	14.78	14.85	14.79	0.07	0.01
Central	15.69	15.68	15.44	(0.01)	(0.25)
Southwest	16.54	16.45	15.66	(0.09)	(0.88)
Western	15.01	14.94	14.54	(0.07)	(0.47)
AZ-Las Vegas	15.91	15.82	15.28	(0.09)	(0.63)
Pacific NW	15.35	15.34	14.98	(0.01)	(0.37)

Table 12 provides an indication of the impacts of the two Class I pricing surfaces when combined with the proposed orders. This pool analysis does not reveal the impacts of the three possible alternatives for phasing-in Option 1B.

Conclusion

As previously indicated, the Department, based on the evidence and arguments currently before it, does not believe Options 2–5 or the other ideas discussed with less detail are viable options. But this proceeding is still a proposal. Therefore, commenters may still present evidence or arguments regarding any of the Options or ideas.

All of the provisions of Federal milk marketing orders continue, in addition to a pricing surface as proposed under Options 1A or 1B. Thus, recordkeeping, prompt payment provisions, auditing plant receipts and utilization, and verification of farm weights and tests still continues. Both Option 1A and 1B also recognize that milk used for fluid purposes should be valued higher than milk used in other products. The two options differ in their approach for establishing minimum values for fluid milk. Option 1A focuses on establishing a minimum price that reflects existing marketing conditions and the current value of milk used for fluid purposes. Option 1B focuses on reducing government intervention, to provide more room for market forces to determine the actual value of Class I milk.

At this time Option 1B is preferred for several reasons. First, this option is based on model results that reflects the best available estimates of least cost assembly and shipment of milk and dairy products to meet all dairy product demands. By promoting market efficiencies, it would be expected to

result in the most preferable allocation of resources over time.

Option 1B would move the dairy industry into a more market-determined pricing system. By lowering differentials, marketing conditions will have a greater impact on actual Class I prices in the form of higher prices that are provided to those producers who service the Class I market. In this way, the revenue necessary to obtain milk for fluid use may be minimized since the Class I value is not shared marketwide with those producers that do not service the fluid market.

U.S. agriculture is transitioning to a more market-determined environment, relying less on traditional government involvement typified by price and income support programs. This transition is emphasized in the 1996 Farm Bill, which specifically provided for the gradual phase-out of traditional price and income support programs, including the dairy price support program that has existed since 1950. Because Option 1B is more market oriented and reduces the government presence in establishing minimum Class I prices, three methods of transitioning to Option 1B are offered. One variation is a gradual phase-in to lower Class I differentials with no transition assistance to offset any lower revenue to dairy farmers that may occur. This variation would reduce Class I differentials in market order areas by 20 percent each year until the final Class I differentials under Option 1B are reached in 2003.

A second variation provides transition assistance at increases Class I differentials initially to offset reduced revenue that may occur to producers due to the decline in Class I differentials. In this variation, the Class I differentials in all market order areas would be increased by $0.55 per hundredweight in the first year of the phase-in, $0.35 per hundredweight in the second year, $0.20 in the third year, and $0.10 per hundredweight in the fourth year of phase-in. This level of assistance would restore income to dairy farmers that might be lost in the transition, and if the market generates additional premiums, these assistance levels would more than make up for lower producer revenue due to lower minimum Class I prices.

A third variation offers transition assistance that initially increases the Class I differentials even more, while still phasing toward a more market-oriented price surface by 2004. Under this variation, all Class I differentials in all market order areas would be increased by $1.10 per hundredweight in the first year of phase-in, $0.70 in the second year, $0.40 in the third year, and $0.20 in the fourth year before reaching the final Class I differentials described by Option 1B. The assistance provided by this variation would enable dairy farmers to make the adjustments necessary to succeed in a more market-oriented environment.

While Option 1B is preferred at this time, Option 1A and other pricing options are still under consideration. Therefore, comments should address at least the following questions:

—Should the Class I price structure be designed to move the dairy industry towards a more market-oriented system that relies less on government regulation in establishing the pricing terms of trade between handlers and dairy farmers or should the Class I price structure be established at the estimated current value of Class I milk?

—What is the appropriate Class I differential level in surplus areas? How low can a Class I differential be established to ensure an adequate supply of fluid milk? What Class I differential level is necessary for producers to maintain sufficient revenue for ensuring an adequate supply of milk? Is that level $1.00, $1.60, or is it another value and why?

—Option 1B has been presented with three phase-in programs; which of these phase-in programs would be preferred and why? Is five years a sufficient time period for the industry to make necessary adjustments to move towards a more market-oriented, less governmentally regulated system?

—How will the California state program interact with either Option 1A or Option 1B?

—To what extent would consumers benefit from reduced differentials under Option 1B versus Option 1A?

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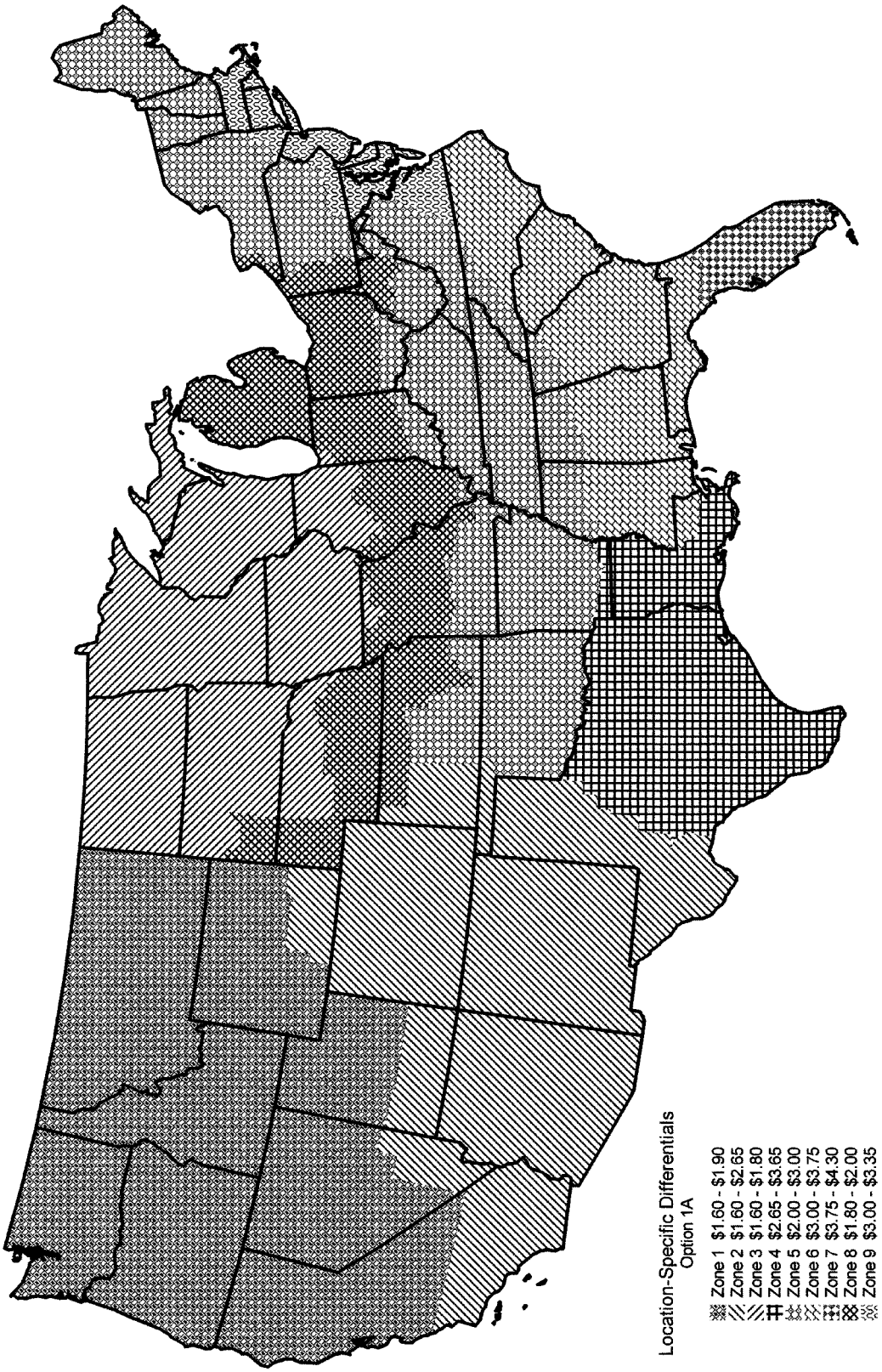
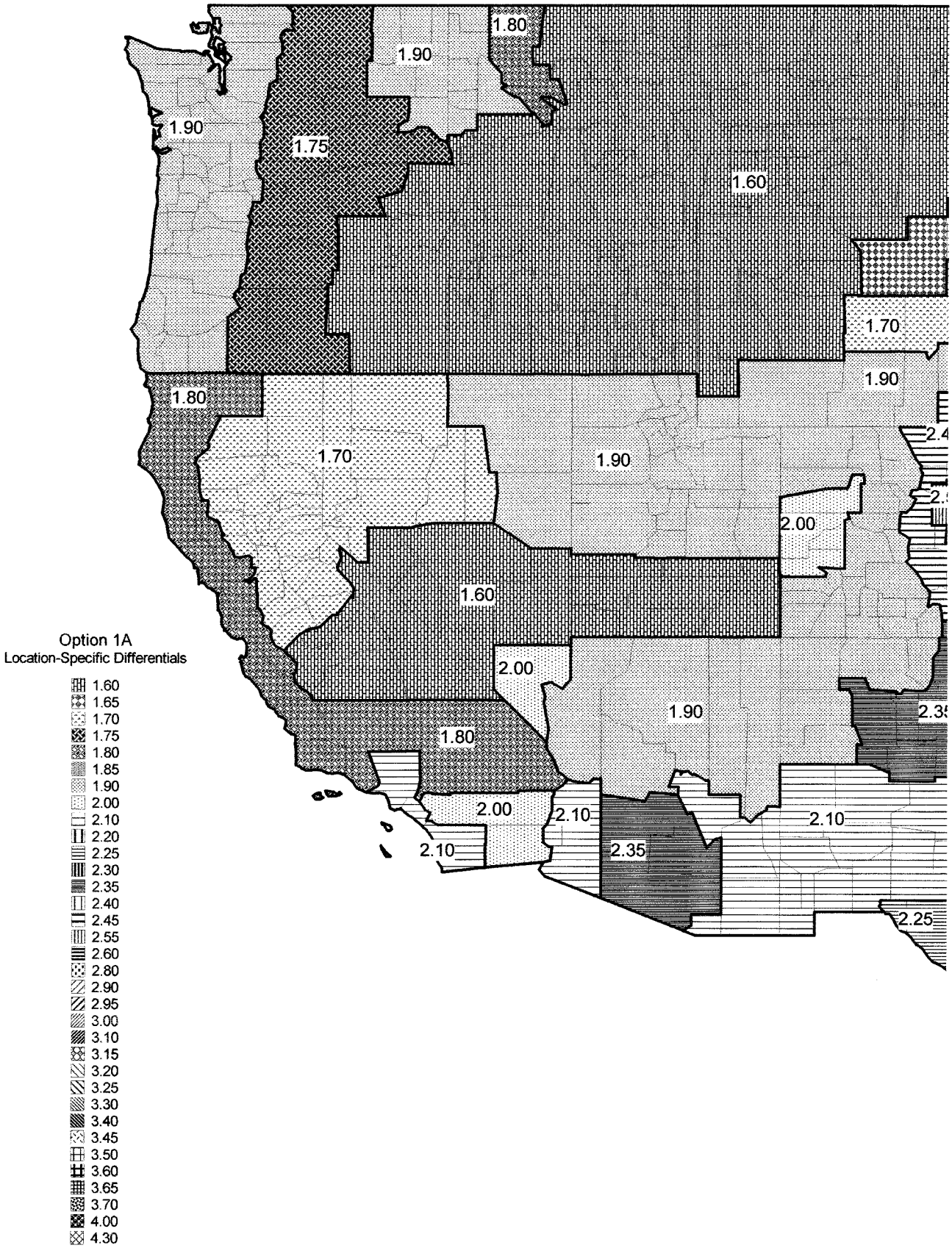
Option 1A - Location-Specific Differential Ranges Map 1

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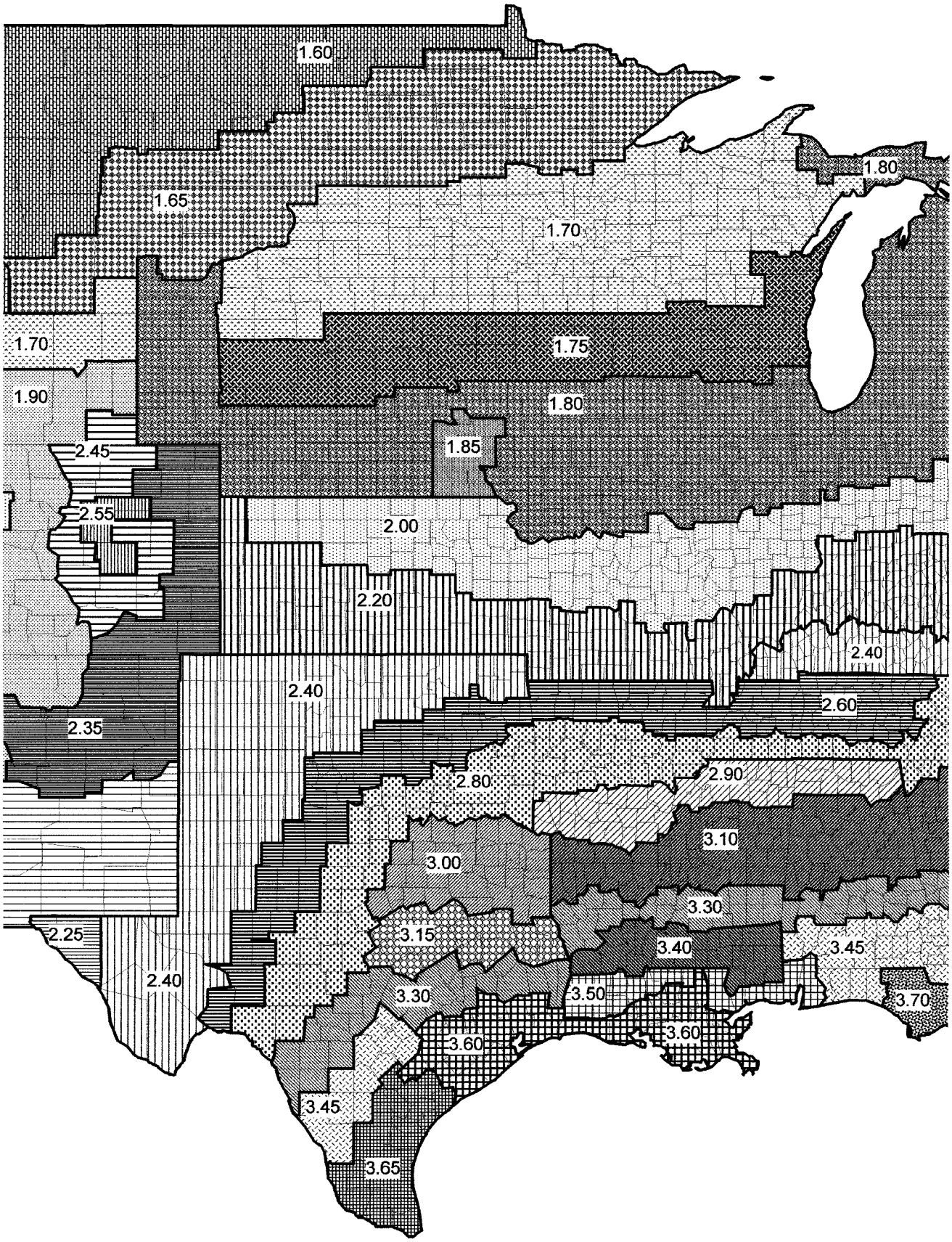
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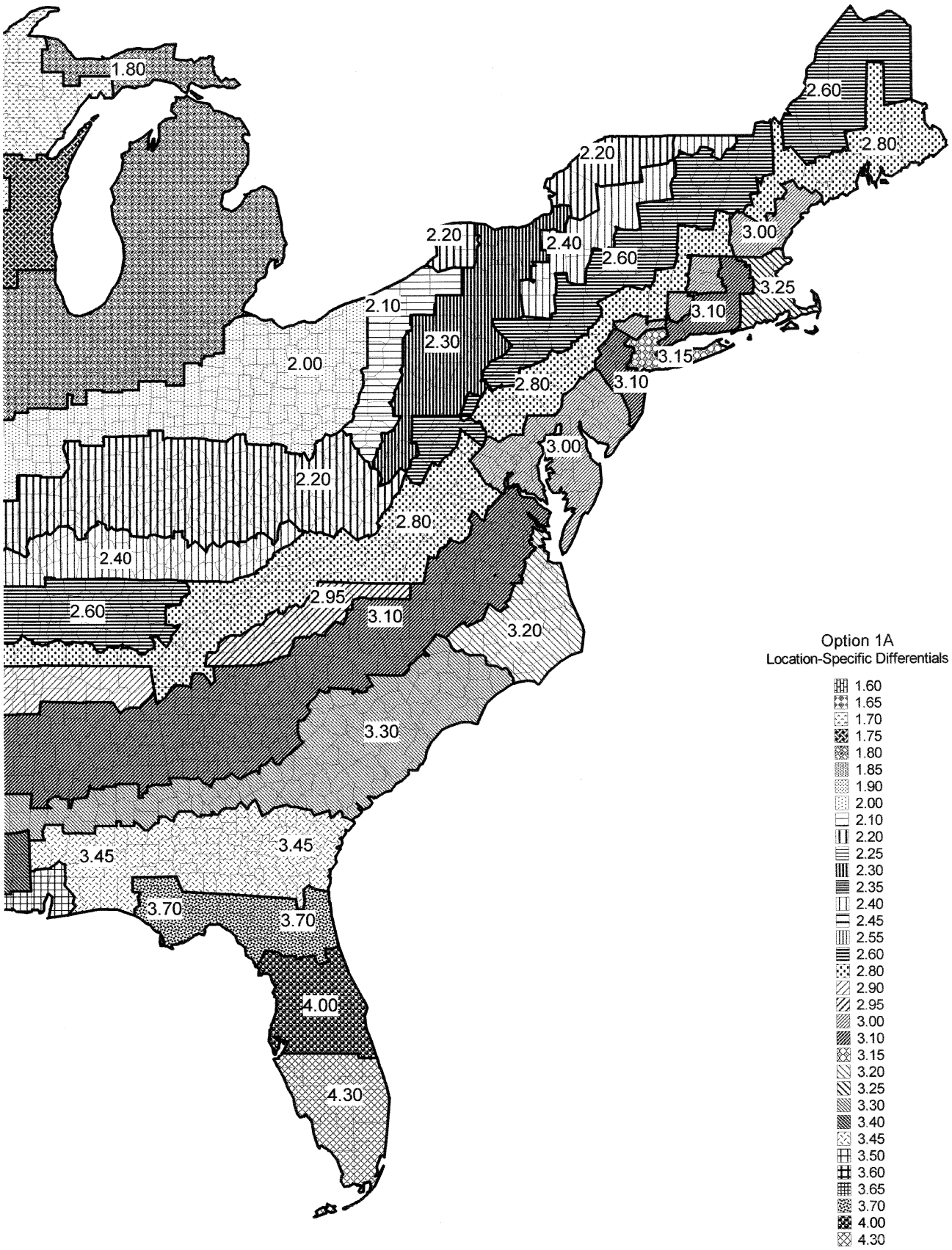
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Option 1A
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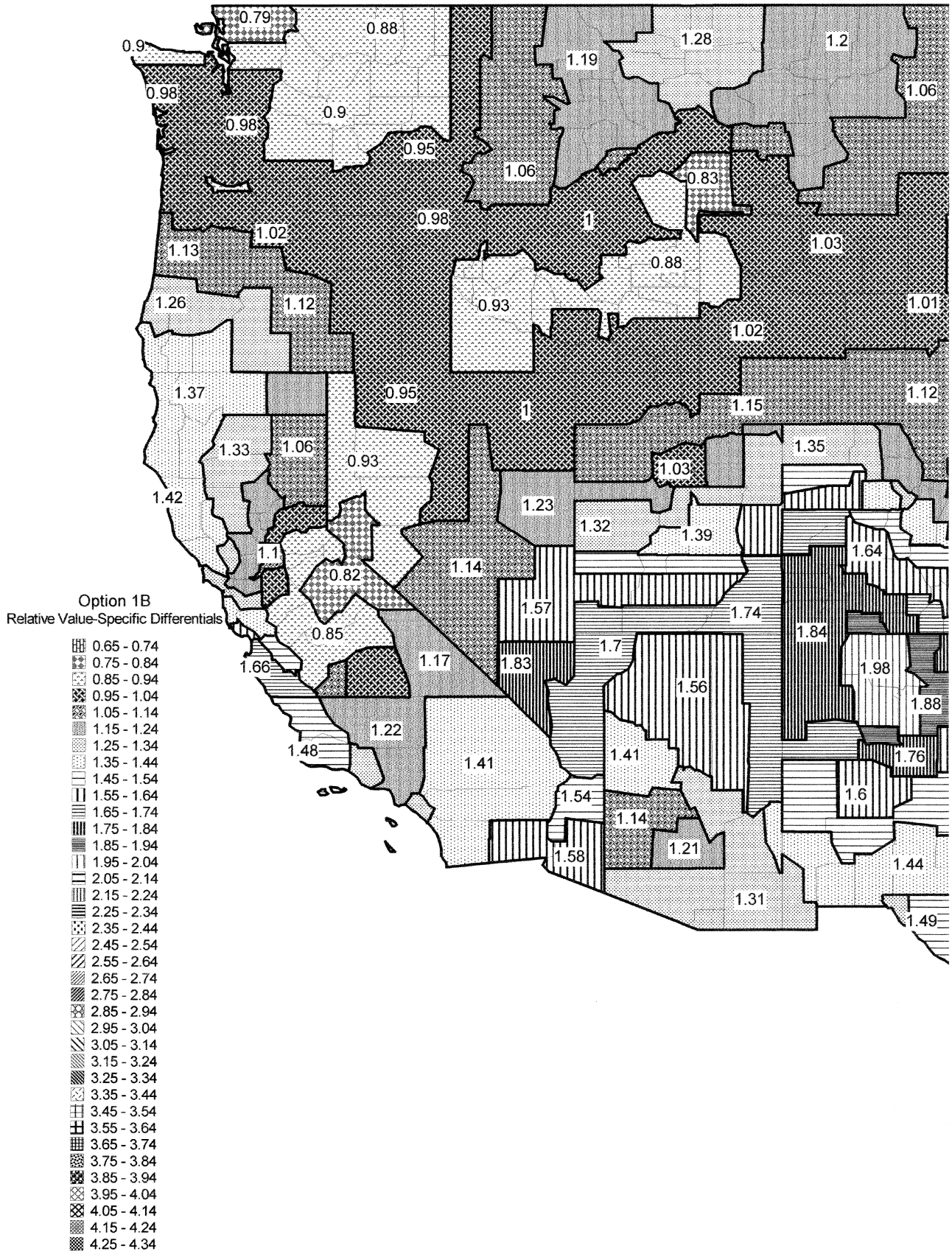
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1.25 - 1.34
1.35 - 1.44
1.45 - 1.54
1.55 - 1.64
1.65 - 1.74
1.75 - 1.84
1.85 - 1.94
1.95 - 2.04
2.05 - 2.14
2.15 - 2.24
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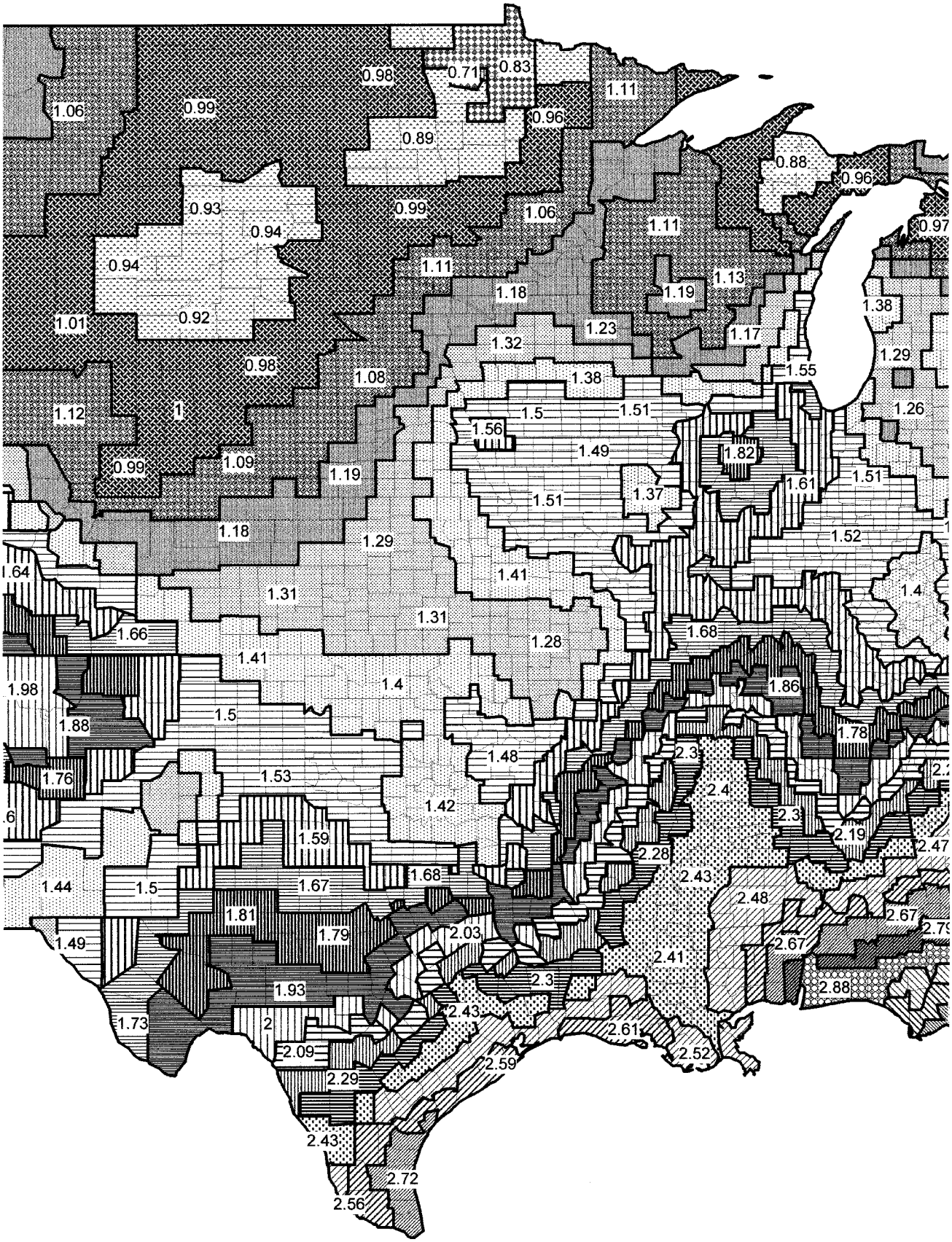
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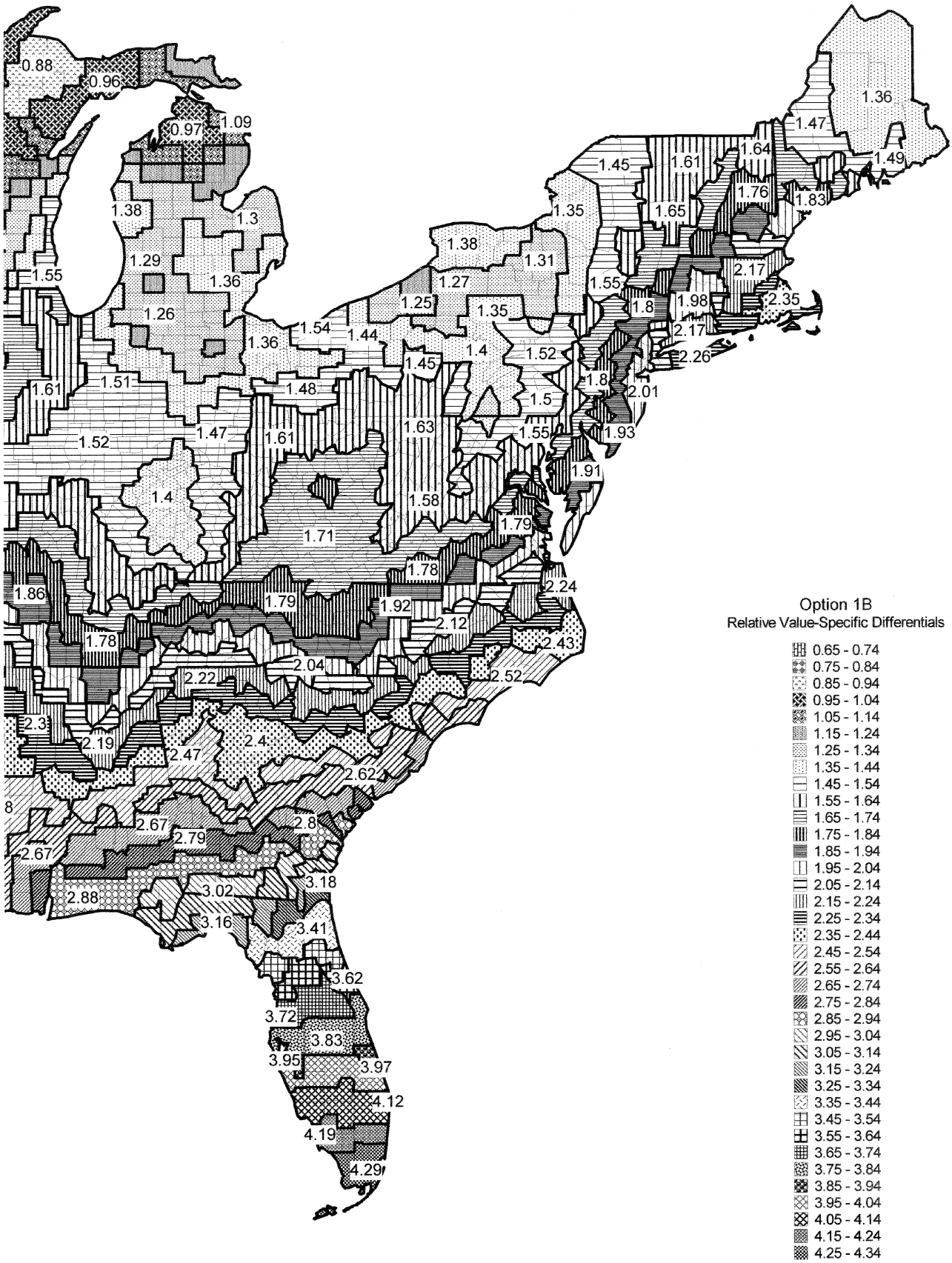

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4. Classification of Milk

Under this proposal, the Federal milk order system would continue to contain uniform classification provisions, but with some modification. The proposed modifications would be consistent with the Agricultural Marketing Agreement Act of 1937, which requires that milk must be classified ''in accordance with the form in which or the purpose for which it is used.''

The proposed uniform provisions would provide for 4 classes of use. They are similar to the uniform classification provisions contained in the current orders. The purpose and application of the current classification and classification-related provisions are contained in the Department's final decisions that were issued February 19, 1974 (39 FR 9012), July 17, 1975 (40 FR 30119), February 5, 1993 (58 FR 12634), and October 20, 1993 (58 FR 58112). The differences in this proposal from the current classification system are discussed herein and are the result of a thorough review of Federal order classification provisions since passage of the 1996 Farm Bill.

Major proposed changes from the current classification plan include the formation of a new Class IV which includes milk used to produce nonfat dry milk (currently in Class III–A) and milk used to produce butter and other dry milk powders (currently in Class III). Other classification changes include reclassifying eggnog as a fluid milk product, moving cream cheese from Class III to Class II, broadening the Class II classification for infant formulas and meal replacement to include all such formulas meeting redefined criteria for such products regardless of the type of container they come in, removing the words ''dietary use'' from the fluid milk product definition and eliminating the term ''filled milk.''

In addition to the class uses of milk, consideration has been given in this proposal to a number of modifications related to order definitions and provisions that are necessary to administer an effective classified pricing plan. Related definitions include the definitions of fluid milk, filled milk, and commercial food processing establishments. Also, modifications have been considered for administrative rules related to the classification of milk. These include rules for classifying skim milk and butterfat that is transferred or diverted between plants, general rules pertaining to the classification of producer milk (including the determination of shrinkage and overage), rules describing how to allocate a handler's receipts of skim milk and butterfat to the handler's utilization of such receipts, and provisions concerning the market administrator's reports and announcements concerning classification. The classification and classification-related provisions are proposed to be restructured and redrafted to achieve part of the goal of standardizing and simplifying the regulatory program.

In response to a Classification Committee draft report released during the developmental stage for this proposed rule, comments letters were received regarding the classification of milk. The comments ranged from suggestions that the entire classification system be revised by providing 2, 4, or 5 classes of milk to suggestions regarding the classification of individual products. Some comments supported the classification method the California state order provides and recommended a review of that method. The comments will be discussed according to each issue.

4a. Fluid Milk Product (§ 1000.15)

The new orders would include a modified *fluid milk product* definition in § 1000.15. The proposed changes to the fluid milk product definition include eliminating the term *filled milk*, including eggnog in the list of specified fluid milk products, and revising the word *buttermilk* to read *cultured buttermilk*. The revised fluid milk product definition would read ''any milk products in fluid or frozen form containing less than 9 percent butterfat and more than 6.5% nonfat milk solids that are intended to be used as beverages. Such products include, but are not limited to, milk, skim milk, lowfat milk, milk drinks, eggnog, and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50% total milk solids), or reconstituted.''

The term ''buttermilk,'' as used in the fluid milk product definition, would be changed to read ''cultured buttermilk.'' The revised term clearly distinguishes the ''beverage'' buttermilk product from the buttermilk byproduct which is produced from a continuous churning operation.

The fluid milk product definition also would be modified to exclude ''filled milk'' and to include eggnog in its list of products. Although it is apparent that eggnog is a beverage milk product and clearly meets many of the criteria for being considered a fluid milk product, it is not now included in the list of products identified as fluid milk products. The proposed addition of eggnog to the list of fluid milk products results in a change of the product's classification from a Class II product to a Class I product. The elimination of the term ''filled milk'' from the fluid milk product definition is discussed later.

Section 15(b)(1) of the fluid milk product definition would be modified to exclude any product from the fluid milk product definition if the product is a formula especially prepared for infant feeding or a meal replacement without regard to the type of container used to package the product. The reference to ''dietary use,'' which is an imprecise term, would be deleted as a standard for classifying milk products.

At present, ''formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers'' are not ''fluid milk products'' but the exact same formula packaged in a conventional container may be considered to be a fluid milk product if it otherwise meets the standards for such products. This possible difference in classification of these formulas would be eliminated.

The consolidated orders would continue to exclude from the fluid milk product definition formulas designed as ''meal replacements'' but, as noted above, any reference to ''dietary use'' should be removed as a classification standard. The words ''dietary use'' have not been helpful in distinguishing the products that are really beverages from other products that are meant to be much more than just beverages.

As intended for the consolidated orders, the words ''meal replacement'' would pertain to the type of specialty product that one might find in a hospital or nursing home for people who have a swallowing disability, some type of digestive impairment, or other health or medical problems. Such products include those that are thickened with a thickening agent, such as waxy maize starch, which make them consumable for a person with special dietary needs. Such products do not compete with fluid milk products as a beverage. They are prepared for a limited market and are not sold as milk to the general public.

The term ''meal replacement'' would not include various types of shake products that are designed for people who are trying to gain or lose weight. Neither would the term apply to products that are advertised as ''protein supplements,'' ''instant breakfasts,'' or ''high in fibre.'' These products clearly may be consumed as beverages and are sold to the general public. Therefore, like other fluid milk products, it is

proposed that they be classified[as Class I.

The meal replacement standard proposed for the consolidated orders is more stringent than the one that is currently applied. At the present time, for instance, products such as ''Sportshake,'' ''Powergetic,'' ''Carnation Instant Breakfast,'' ''Resource Dairy Thick,'' ''ReadyCare Thickened Dairy Drink,'' and ''Ultra Slim-Fast'' are classified as ''meal replacements.'' As redefined in this proposal, however, only ''Resource Dairy Thick,'' ''ReadyCare Thickened Dairy Drink,'' and similar products would fall within the meaning of ''meal replacement,'' as described above.

Fluid milk products that contain less than 6.5% nonfat milk solids are excluded from the current and proposed fluid milk product definition. Consideration was given to eliminating or lowering this standard because there are some products that resemble fluid milk products but are excluded from the fluid milk product category because their nonfat solids content falls slightly below the 6.5% standard.

Several comment letters were received opposing any adjustment of the 6.5% standard. Some interested parties pointed out that elimination of the 6.5% nonfat milk solids standard would greatly expand the fluid milk product category to include many essentially non-milk products that contain very little milk in them. This could greatly increase market administrator auditing costs in following these products and could regulate several new facilities that would not reasonably be considered to be milk plants. In addition, several dairy product manufacturers argued that their products would be detrimentally affected as other shelf-stable competitive products would gain a substantial economic advantage. The letters stated that the increase in cost associated with the Class I price would force manufacturers to reformulate their products so that no fluid milk or substantially less fluid milk would be used.

After carefully weighing these arguments, it is concluded that any competitive problems that may now exist as a result of the 6.5% standard are very minor and that no change in the standard is warranted at this time.

4b. Fluid Cream Product (§ 1000.16)

No change would be made to the *fluid cream product* definition. The current definition is uniform under all the orders and should be used in the newly merged orders. No comment letters were received which suggested changing the current *fluid cream product* definition; however, several comments were received in support of the current definition.

4c. Filled Milk

It is proposed that the definition of *filled milk* be eliminated and the term be removed from the fluid milk product definition and other provisions within the orders. Filled milk is a product that contains a combination of nonmilk fat or oil with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids). Filled milk was first produced and marketed in the 1960s. In 1968, the orders were amended to provide a definition of filled milk. Currently, there is little or no filled milk being produced under Federal orders. The term filled milk is used 18 times in a milk order. It serves little purpose today except to complicate and lengthen the regulatory language. For this reason, the definition of filled milk would be eliminated and the term removed from the fluid milk product definition and other provisions within the orders.

The form of filled milk and purpose for which it is used are the same as the form and purpose for which whole milk is used. Filled milk is marketed by handlers in the same types of packages and in the same trade channels as whole milk, and is mainly intended to be used as a beverage substitute for milk. Whether made from vegetable fat and fresh or reconstituted skim milk, or any combination thereof, the resulting product resembles whole milk in appearance. Therefore, any filled milk produced and marketed in the future would be classified as a Class I product under the revised fluid milk product definition.

One cooperative association submitted a comment supporting the suggestion to eliminate the definition of filled milk. No comments were received in opposition to this idea.

4d. Commercial Food Processing Establishment (§ 1000.19)

The definition of *commercial food processing establishment* (CFPE) is proposed to be revised by removing the filled milk reference, for the reasons previously discussed, and by removing the word ''bulk'' from the definition. The removal of the word ''bulk'' would allow a CFPE to receive fluid milk products and fluid cream products for Class II use in certain sized packages as well as in bulk.

Presently, the CFPE definition prohibits the receipt of fluid milk products for Class II use in relatively small pre-measured packages that might reduce the CFPE's production costs. Although there were no comment letters directed specifically to this point, this problem has come to the attention of market administrator personnel. While proposing that packaged fluid milk products be permitted to be transferred to a CFPE in any size, it is also proposed that only milk which is shipped in larger-than-consumer-sized packages (i.e., larger than one gallon) should be eligible for a Class II classification. If milk is received in gallon containers or smaller, the milk should be priced as Class I milk since there is no way of guaranteeing that such products will not be sold for fluid use. Permitting milk in any sized container to be sold to a CFPE for Class II use if the container had a special label, such as ''for commercial food processing use only,'' was considered, but such a provision would be impractical and it would be prohibitively expensive for a handler to prepare specially labeled products for small accounts. The current restriction barring a CFPE from having any disposition of fluid milk products other than those in consumer-sized packages (one gallon or less) should be retained under the new orders.

These two restrictions are based upon practical considerations. The integrity of the classified pricing system would be much more difficult to maintain if the market administrator were forced to audit every CFPE on a regular basis. By prohibiting the sale of fluid milk products in consumer-sized packages to a CFPE for anything but Class I use, there would be less need to regularly audit CFPE's to be sure that such products are not being sold to the public. Similarly, since packaged fluid milk products in containers larger than one gallon are rarely, if ever, found in retail outlets, it is unlikely that such products will be sold for fluid use. By restricting fluid milk product disposition by CFPE's to packaged products not larger than one gallon in size, there is reasonable assurance that milk priced as Class II will not be disposed of as fluid milk sold by the glass from a bulk dispenser.

One handler submitted a comment in support of the Committee's suggestions regarding the commercial food processing establishment definition; none were received in opposition to these suggestions.

4e. Classes of Utilization (§ 1000.40)

Historically, the fluid or beverage uses of milk have been classified in the highest-priced class (Class I), and soft or spoonable products, those from which some of the moisture has been removed, have been classified in the intermediate class of milk (Class II). The final

decision issued on February 5, 1993 (58 FR 12634) provided 3 uniform classes of milk for all orders. Classes I and II continued the traditional classification of milk, while the lowest-priced class (Class III) contained the hard, storable products. In a final decision that became effective December 1993, a fourth class—Class III–A (actually a sub-section of Class III)—was established for most orders for milk used to produce nonfat dry milk.

It is recommended that the fluid and beverage uses of milk continue to be the highest-priced class of milk, Class I. Soft or spoonable products, or those used in the manufacture of other food products or sweetened condensed milk, would be classified as Class II products. Class III would contain primarily the hard cheeses, but also such storable products as plain or sweetened evaporated or sweetened condensed milk (or skim milk) in a consumer-type package. Finally, a new Class IV would contain all skim milk and butterfat used to produce butter or any milk product in dried form.

Comments filed regarding the number of classes of utilization for the proposed merged orders varied from supporters of one class, which would eliminate all manufacturing classes, to supporters of 5 classes of milk. Comments concerning the addition of an export class were also received. Some comments urged the immediate suspension or termination of Class III–A, while others recommended a thorough review of Class III–A.

Many commenters suggested that there be one class of milk. A dairy farmer stated that dry milk powder can be used for making cheese or fluid milk and could be easily stored, and later dumped on the market again which could influence the milk price. A large cheese manufacturer maintains that multiple classes of utilization for competing manufactured product uses create market distortion and regulatory adjustments, and argues that a single, market-clearing price for all non-fluid uses would allow competitive forces to determine supply and demand.

Another commenter, also a dairy producer, stated that manufacturing Class II and Class III products is the only means of storing excess milk. According to the producer, at one time much of the country's milk was produced at Grade B standards and, consequently, at a lower cost of production. However, he contends, this is not true today. The producer asserts that the current Federal order system of milk classification is the reason why the dairy industry is not unified and unable to come to a consensus and that milk is the only commodity in the country that is priced according to its use.

A major dairy foods association suggested that there be two classes of milk (i.e., Class I and all other). However, if multiple classes of milk are maintained, the association proposed that some products be reclassified to Class III and that Class III–A be discontinued. The association also stated that no new milk classifications should be established such as an export class of milk. Another commenter suggested that more than one class of non-fluid utilization of milk is unnecessary and does little to enhance producer income.

A manufacturer of shelf-stable products also supported a two-class system for clarification and simplification reasons, and stated that such a system would also eliminate the need for future hearings to determine the classification of new products. The commenter strongly opposed the reclassification of Class II products in aseptic containers to Class I and argued that these products do not compete with current Class I products, but rather compete in the juice market.

Another handler stated that it supported 3 classes of milk, but stated that many products that are currently in Class III should be reclassified as Class II. The handler contended that classification should be based upon demand elasticity and suggested that the criteria for placing various products into classes should be expanded. Very few products are processed to utilize true surplus supplies of milk, it stated.

A major cooperative association's comment letter supported a 4-class system where Class IV would include butter and nonfat dry milk products, thus serving as the class for market-clearing products. The cooperative stated that a 3-class system would not provide enough differentiation for market clearing. It stated that a distorted market may result when pooled handlers must pay the same prices for milk used in nonfat dry milk as for milk used in cheese. Another cooperative also supported the separate classification for cheese (Class III) and butter and powder (Class IV).

Two trade associations recommended 5 classes of milk for the merged orders. One association recommended that the 5 classes be divided into Classes I, II, III, IVA, and IVB and that products be classified on the basis of product yields. The other association stated that the 5 classes of milk should consist of Classes I, IIA, IIB, IIIA, and IIIB, and that Classes IIA and IIB should be classified on the basis of protein and butterfat, whereas Classes IVA and IVB should be classified on the basis of solids not-fat and butterfat.

A few comments addressed the issue of an export class. One comment letter supported the concept of continuing to develop export markets and providing for Class III–A or Class IV to compete in the international marketplace. A Missouri dairy farmer wrote that an export class is needed so that the cost of clearing the U.S. market can be shared across Federal order and state order lines.

Another commenter, a dairy products manufacturer, recommended an export class be established for Class I products. The handler stated it is engaged in the packaging and selling of UHT (i.e., ultra high temperature) processed shelf-stable dairy products sold within the United States and abroad. According to the handler, its inability to compete with the price offered by its competitors is the principal reason it has been unable to increase its volume of business in the international market. The handler contends that changes in the Federal order system are needed to allow the American dairy industry to become competitive in the international market.

The handler suggested that the export class price be established just above the Class III level because it would allow milk to flow into either the cheese market or export markets, whichever provides the greater opportunity. The handler claims that the addition of an export-oriented, value-added, product class would yield greater returns to producers than exporting skim or whole milk powder (i.e., currently Class III-A products).

A northwest cooperative association also recommended that consideration be given to establishing an export-oriented class to facilitate the development of export markets and to promote fair trade. Products produced for the world market would be included in a class with a price that reflects ''world market'' levels. With such a class, according to the cooperative, the dairy industry would be in a better position to promote exports and contribute to the U.S. balance of trade. The commenter contends that processors with exporting potential will benefit from an export class and that producers also will benefit because expanded exports will lead to reduced dairy surpluses.

After careful consideration of the comments and arguments, 4 classes of utilization are proposed for the consolidated orders, as described below. Inclusion of an export class is not proposed because classification is based on form and use without regard to sales area. In addition, it would be difficult to support a concept of dual pricing of a

product—one price for domestic use and a lower price for export. Moreover, to adopt such dual pricing would be inconsistent with the principles of the World Trade Organization.

4f. Class I Milk

Under this proposal, Class I milk would be all skim milk and butterfat contained in milk products that are intended to be consumed in fluid form as beverages. Class I should include all the products included in Class I in the 1993 uniform classification decision plus eggnog.

The 1974 uniform classification decision classified eggnog as a Class II product. The decision recognized that eggnog was prepared to be consumed as a beverage and that it was classified in 9 of the 32 orders as a Class I product. However, the decision stated that eggnog was a highly seasonal product with limited sales. It was also estimated that approximately 40% of the sales of this product was in the form of imitation eggnog. The decision stated that a Class II classification would enhance the competitive position of the product in the marketplace.

In 1991, the recommended decision of the national hearing changed the classification of eggnog from its historical Class II classification to Class I. However, the 1993 final decision for the proceeding reversed the recommended decision classification. The primary reason for the change in the product's Class I classification back to the historical Class II classification was based on exceptions to the recommended decision. At the same time, however, the final decision left low-fat eggnog as a fluid milk product with a Class I classification, as it was prior to the 1990 national hearing.

Class I products are generally classified on the basis of their fluid form and intended use. Eggnog, a highly seasonal product, is clearly intended to be consumed as a beverage. Since this product is manufactured, packaged and distributed to the consumer as a drinkable beverage, it is proposed to be classified as a Class I product. The modest change in the ingredient cost of the finished product should have little or no effect on its sales in the marketplace. Comments received regarding the reclassification of eggnog were generally in support of its reclassification into Class I.

A western producer organization supports the recommendation to include all milk consumed in beverage form in Class I. The organization rejects a two-class system as proposed by processor groups, arguing that such a system makes no economic sense since not all non-fluid uses of milk are market-clearing in nature and thus should not be placed in the same class. A shift to a two-class system would benefit processors and manufacturers at the expense of producers, according to this commenter.

Class I Used-to-Produce. In order to simplify the accountability for milk products classified as Class I that may contain nonmilk ingredients and/or previously processed and priced skim milk and butterfat, we recommend adding a ''used-to-produce'' category to Class I. The used-to-produce accountability method would preclude the need to develop and maintain nonstandard conversion factors and non-milk credits (i.e., salt, flavoring, stabilizers) for milk product accountability. This method should improve the accuracy of handler reporting and minimize audit corrections without sacrificing any statistical information, pricing considerations, or classification criteria. No comments were received in response to the recommendation that this category be added to the proposal.

4g. Class II Milk

Most of the products included in Class II as a result of the 1993 uniform classification amendments would continue to be classified as Class II products under the new orders, with 3 exceptions. The exceptions include: (1) Cream cheese, which would be reclassified from a Class III product to a Class II product; (2) eggnog, as discussed already, which would be reclassified as a Class I product; and (3) any fluid product in a hermetically-sealed, all-metal container which would be classified as a Class II product.

The 1993 national hearing decision included cream cheese in Class III. The decision placed spreadable cheeses and cheeses that can be crumbled into separate pieces in Class III, while other more liquid ''spoonable'' products were placed in Class II. The decision stated that cream cheese is used as a substitute for butter because it functions as a spread and, thus, classified cream cheese in Class III.

The classification of cream cheese should be changed from Class III to Class II. The milk used in Class II products, generally described as ''soft'' products, is used to process or manufacture products for which handlers know a consumer demand exists. Generally, these products have some of the water removed from producer milk or contain a high enough butterfat content that they will not be used as beverages. Products included in Class II are those that are neither as perishable as fluid products nor perform a balancing function for the market. Many Class II products have longer shelf-lives than fluid milk products, while being less storable than markets' surplus uses of milk.

The primary distinction between Class II products and the products used to balance the market is existing consumer demand. Although cream cheese may be used as a substitute for butter, it is not made to be stored when no other outlets are available, as is butter. It is a consumer convenience product that is produced to meet consumer demand and not to utilize surplus supplies of milk. Handlers do not process milk into perishable or semi-perishable dairy products if they do not have a consumer market for those products. Accordingly, it is proposed that cream cheese be reclassified from its current Class III classification to Class II.

Three comment letters stated that there is no basis for reclassifying cream cheese into Class II and it should remain with other cheeses in Class III. At least 2 comment letters supported the revised classification of cream cheese. One commenter argued that cream cheese competes for consumer market share with butter, which is currently a Class III product, and should be classified according to its ''use'' which supersedes any ''form'' criterion argument. The letter stated that while the reclassification will have no appreciable effect on the blend price, it may be financially detrimental to plants that produce cream cheese.

Some comments addressed the classification of cottage cheese and ricotta cheese, in addition to cream cheese. A national manufacturer of cheese products supports the reclassification of milk used to produce cottage cheese and ricotta cheese from Class II to Class III. The handler states that due to falling demand for cottage cheese, it should be placed with other cheeses in Class III. Another cottage cheese manufacturer made the same suggestion.

These suggestions should not be incorporated in this proposal. Great care should be taken in reclassifying dairy farmers' milk to any class below Class I. Such reclassification may occur when it is necessary to dispose of surplus milk or to allow intermediate dairy products to compete with a nondairy substitute to the benefit of dairy farmers. Neither of these reasons would appear to fit the situation facing milk used in cottage cheese.

The declining market for cottage cheese is likely the result of several factors besides its price. Some of these

factors may be the substitution of newer or improved dairy products for cottage cheese, changing consumer tastes, or consumer preference for lower fat products. There is no indication that reducing the ingredient cost of this product by a fraction of a cent per container would do much to stimulate consumer preference for it.

As discussed above, the phrase in §§ 1000.15(b)(1) and 40(b)(v), ''or dietary use (meal replacement)'' would be removed and any fluid product packaged in a hermetically-sealed, all-metal container would be reclassified as a Class II product. Formulas especially prepared for infant feeding should continue to be classified as Class II products without regard to the type of container in which they are packaged.

Although no change is intended for the present classification of buttermilk for drinking purposes and buttermilk for baking purposes, some changes are needed to clarify the distinction between the 2 products. First, as noted previously, drinking buttermilk should be labeled as ''cultured buttermilk.'' In addition, some changes are needed to distinguish this product, which is a Class I product, from buttermilk biscuit mix, buttermilk for baking, or simply baking buttermilk, which is a Class II product.

Currently, the criteria used to distinguish drinking buttermilk from buttermilk for baking is that the latter product must contain food starch in excess of 2% of the total solids in the product. However, this criteria is not specified in the orders themselves, but rather in administrative guidelines that have been issued. This guideline should be formalized by stating the standard in the general provisions that will contain the classification section for the consolidated orders. As now specified in Section 1000.40(b)(2)(v), the Class II classification is limited to ''buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2% of the total solids, provided that the product is labeled to indicate the food starch content.'' It should be emphasized that the proposed standard not only requires buttermilk for baking or buttermilk biscuit mix to contain the required amount of food starch but, in addition, the label must indicate the food starch content of the product.

Class II Used-to-Produce. The 1993 uniform classification amendments changed the accountability method of several products from a disposition basis to a used-to-produce basis. Except for some fluid cream products, all products were moved to the used-to-produce category. The change resulted in simplification and improved accuracy in the reporting and auditing of these products. This method should be extended to the remaining Class II products that are currently accounted for on a disposition basis, specifically creamers, light cream, milk and cream mixtures, and heavy cream.

4h. Class III and Class III–A (i.e., Class IV) Milk

The July 1993 national hearing decision provided that hard, storable products be included in Class III. Class III–A became effective in 3 Federal orders in November 1992 and was implemented in 27 Federal orders in December 1993. The amendments established a Class III–A milk class that included only nonfat dry milk. It is recommended that the products currently included in Class III continue to be classified in that class with two exceptions. As discussed under the Class II section, the classification of cream cheese should be changed from Class III to Class II. Also, butter and all milk powders that are currently in Class III should be moved to Class IV.

The 1993 Class III–A decision stated that the separate class for milk used to produce nonfat dry milk (NFDM) was needed to allow handlers to recover the cost of producing NFDM. The Class III–A price is calculated from a product price formula, which provides a make allowance, to arrive at a price for milk used to produce NFDM.

There has been a good deal of criticism of Class III–A. Some of the arguments made by critics of III–A are that:

- Class III–A has resulted in lower uniform prices under Federal milk orders;
- A significant amount of milk was not pooled when the Class III–A price exceeded the uniform price adjusted for location;
- The wide gap between the Class II price and the Class III–A price was destroying the market for bulk sweetened condensed milk; and
- The Class III–A pricing system was undermining the Class II and Class III price by allowing milk that is manufactured into NFDM at a lower price to be utilized in increasingly large quantities to make soft products and cheese.

Supporters of Class III–A argue that it should be retained for several reasons. One argument that appeared in several letters was the need to remain competitive with butter/powder plants under California's 4a pricing program.

The Pennsylvania Farm Bureau noted that as the dairy industry moves toward the elimination of support prices and more into the international market, Class III–A pricing will offer a way to capture changing price relationships between cheese, butter, and powder.

Michigan Milk Producers Association (MMPA) and Independent Cooperative Milk Producers Association (ICMPA) argued that the elimination of Class III–A will competitively disadvantage those parties who currently provide market balancing services. They note that as long as California remains outside of the Federal order program, the West Coast nonfat dry milk price, plus a transportation differential, will continue to effectively establish a price ceiling for Midwest nonfat dry milk. This product, according to MMPA and ICMPA, is still a market-clearing product for Michigan, Indiana, Kentucky, and parts of Ohio.

A major Northeast cooperative association, Agri-Mark, also opposed any suggestion to eliminate Class III–A. According to Agri-Mark, arguments that Class III–A pricing has encouraged unneeded nonfat dry milk production are false. Class III–A pricing, in Agri-Mark's view, has allowed nonfat dry milk manufacturers to resume their role of efficiently balancing Class I markets and disposing of reserve supplies. While vigorously supporting the retention of Class III–A pricing, Agri-Mark also stated that it is necessary to modify Class III–A pricing in two primary areas. The first modification involves the replacement of the Central states price with a Class III–A price calculation using a California nonfat dry milk price announced each week. The second modification involves including milk used to manufacture buttermilk powder in the Class III–A definition.

Agri-Mark contends that Class III–A should be continued in all Federal marketing areas in order to allow their nonfat dry milk manufacturing plants to remain competitive with California and therefore be available to balance Class I needs and facilitate the handling of reserve milk supplies in each market. It is also Agri-Mark's view that the current Class III–A pricing formula has worked well and has not given an advantage to nonfat dry milk manufacturers relative to cheese manufacturers.

Agri-Mark acknowledges that the problem of using nonfat dry milk to replace fresh milk in traditional dairy uses when Class III–A prices are significantly below Class II and III prices does exist; however, it argues that the elimination of Class III–A pricing will not alleviate this problem because low-priced nonfat dry milk manufactured in California will still be available to replace local fresh milk. In the absence of Class III–A, local fresh milk may be unable to find a nearby outlet, particularly on a seasonal basis,

resulting in disorderly marketing conditions.

Another commenter, the Alliance of Western Milk Producers (AWMP), stated that separate butter/powder and cheese milk pricing classes would not be detrimental to producers, but rather that a single price class would cause producers economic disaster. The AWMP supports a two-class system for manufactured products. It recommends that Class III include cheese and Class IV include butter, nonfat dry milk, and whole milk powder.

Darigold, a cooperative association based in Seattle, Washington, submitted a comment in support of separate classes for butter/powder (Class III–A) and for cheese (Class III) and offered several arguments why separate classes for butter, powder, and cheese should be adopted. Darigold states that the reconstitution of nonfat dry milk should be viewed as a means to economic efficiency rather than a pricing disruption or distortion. Darigold points out that it is inefficient to have milk transported several hundred miles if cheaper solids could be transported at a lower cost. Darigold also states that reconstitution is actually consistent with the purposes of Federal orders because it promotes the goal of making adequate supplies of milk solids available within a deficit market.

Darigold also states that reconstitution of nonfat dry milk into higher-classed dairy products is much more demand-driven than price-driven and that the increased use of nonfat dry milk in the processing of higher-valued products may be explained by the shortages of milk and continuing declines in milk production that have occurred in some regions, not by price incentives associated with Class III–A. The cooperative also states that milk movements in recent years to the Upper Midwest would have occurred even without Class III–A because milk production was decreasing in the Upper Midwest but growing in the West.

Darigold maintains that concerns about ''artificial drying'' (i.e., drying milk just to be able to obtain nonfat dry milk solids as a substitute for fresh milk in Class II products) overstate the problem and should be kept in perspective. In addition to acknowledging that such practice would be inconsistent with Federal order program goals, the cooperative points out that it would also be inconsistent with economic efficiency. Darigold states that only a limited amount of nonfat dry milk reconstitution has been driven by a price difference between Class III and III–A sufficient to offset the costs of drying and reconstitution. Furthermore, it is argued that suggestions to increase the Class III–A price to make it closer to the Class III price is unsound policy. The commenter argues that it makes no economic sense to artificially increase the lowest class price which typically clears the market.[32]

Dairylea, a cooperative association with members in the Northeast, also supports continuation of Class III–A for milk used to produce nonfat dry milk stating that the incorporation of this class allowed for a more equitable sharing of costs among all producers in balancing weekly and seasonal supplies of a market via nonfat dry milk production. While acknowledging that the substitution of nonfat dry milk for fresh milk in Class II and III products decreases producer blend prices, Dairylea contends that this would continue to occur in the absence of Class III–A pricing because lower-priced powder from California would be available.

Some commenters, while supporting Class III–A, urged the Department to broaden the class to include more products, such as dry whole milk. In addition, several comments were received urging the reclassification of sweetened condensed milk from Class II to Class III or to the same class which includes nonfat dry milk. The commenters explained that sweetened condensed milk is primarily used in commercial food processing establishments and in the confections industry and that it is interchangeable with powdered milk products and sugar in ingredient markets for processed foods and candy. They argued that manufacturers of sweetened condensed milk are currently at a competitive disadvantage with manufacturers of nonfat dry milk. Another commenter also stated that it was losing business because nonfat dry milk is substantially cheaper than fluid dairy ingredients.

A major dairy manufacturer stated that product classifications should not create price discrimination among milk products used for similar purposes. Therefore, it supports the same classification for nonfat dry milk, sweetened condensed milk, and condensed skim milk, which are largely interchangeable. According to the commenter, the current system of classification places sweetened condensed milk at a significant disadvantage and has virtually destroyed the market for sweetened condensed milk. The commenter also stated that other products that compete with nonfat dry milk, including evaporated milk, should be placed in the same class as nonfat dry.

A great deal of consideration was given to the argument that bulk sweetened condensed milk/skim milk should be reclassified to be in the same class as nonfat dry milk, i.e., Class IV in the proposed new orders. In fact, such a change was recommended in a preliminary Dairy Program Classification Committee report. With the change in class pricing formulas proposed for the new orders, however, the problems leading to this recommendation will be removed. Consequently, bulk sweetened condensed milk and skim milk should remain in Class II.

Bulk sweetened condensed milk/skim milk is used as an intermediate product in ice cream, candy, and other manufactured products. However, these manufactured products can also be made from powdered milk. When powder prices are low relative to the Class II price, there is an economic incentive for powder to be substituted for bulk sweetened condensed milk. As a result, there must be an economic relationship between the Class II price and the cost of using alternative dry or concentrated products to make Class II products. Under current pricing provisions, the Class II price can be excessive relative to using nonfat dry milk since the Class II price is a measure of the value of milk in cheese (the Class III price) plus a differential.

As proposed in this rule, the Class II price for the new orders would be based upon the Class IV price plus a differential of 70 cents. This fixed difference precludes the much wider price differences that have existed at times between Class II and Class III–A prices. Consequently, sweetened condensed milk should continue to be classified as a Class II use.

4i. Shrinkage and Overage

The shrinkage provisions of the new orders should be modified to reflect a pro rata assignment of shrinkage based on handler utilization. In other words, each handler's ''shrinkage'' or lost milk should be classified according to the handler's use of milk that was not lost in transit or processing. Adoption of such modification will simplify both order language and accounting procedures.

Shrinkage is experienced by handlers in milk processing operations and in the receipt of farm bulk tank milk at receiving stations and processing plants. Milk is unavoidably lost as it remains in pipe lines, adheres to tanker walls and/

[32] See Issue Number 3 of this proposed rule for a comprehensive discussion of Class III and IV prices.

or other plant equipment, and is washed away in the cleaning operations. In addition, unexpected losses, including spillage or leaking packages, also contribute to shrinkage.

A shift from the current shrinkage allowance provisions to a pro rata assignment of shrinkage based on utilization would improve market efficiencies, create a more equitable situation among handlers, and facilitate accounting procedures involving shrinkage and overage assignment. Over time, changing conditions within milk markets have led to the adoption of a rather complex shrinkage provision. This provision can be both modified and simplified without compromising the objectives of the Federal milk marketing program. The proposed provision should meet the goals of simplification and improvement of Federal milk marketing orders.

Arguments in support of the proposal illustrate the advantages of a shift to pro rata shrinkage assignment as opposed to either continuation of the current shrinkage class assignment and allocation system or adoption of other alternatives. Several of the major cooperative associations expressed support for the suggestion to prorate shrinkage based on plant utilization. According to one commenter, plants should account to the pool at a price that is the intended use for milk processed at that plant. The commenter added that this will encourage and assure plant efficiency.

Simplification of order language was one of the more frequent comments received in response to the preliminary reports on classification. The shrinkage provision undoubtedly falls within this category. As pointed out earlier, the shrinkage provision has become rather complex. A comment letter submitted by one industry member argues that the retainment of the shrinkage provision is unnecessary and that any milk which is not accounted for should be classified as Class I. While this suggestion seems to provide an incentive to inefficient plant operators to minimize the amount of milk loss by placing a higher value on shrinkage than presently exists in the current system, a more equitable method is to assign shrinkage pro rata based on a handler's utilization. This will prevent any handler with solely Class III utilization from being responsible to the pool for shrinkage assigned to Class I.

Other comment letters suggested that shrinkage should be eliminated, along with some other order provisions, because it reduces income to dairy farmers. Some commenters argued that the costs associated with record keeping, reporting and auditing plant loss has little value to the producer, consumer, or handler. One cooperative association expressed support for the elimination of accounting for animal feed and dumped products; no opposing comments were received.

One handler proposed that shrinkage be assigned all at the lowest classification or all Class I with a monetary credit. The monetary credit would be based on a fixed allowance depending on where the handler's loss is assumed. The handler stated that this would eliminate a substantial number of words from the order language. This handler also suggested expanding the shrinkage rules to allow for aseptic packaging because shrinkage in aseptic packaging is far greater than in a plant processing milk in containers, according to the handler. The handler suggested a 4% shrinkage allowance for aseptic packaging.

In Section 30 of each order, pool plant operators and certain other handlers are required to report their total receipts and disposition of skim milk and butterfat. In Section 40, the total reported receipts are classified according to usage. Any positive difference between receipts and utilization is referred to as *shrinkage* and any negative difference is called *overage*. The proposed orders would provide that for each pool plant and each cooperative association bulk tank handler, the market administrator would determine the shrinkage or overage by subtracting the handler's utilization of milk from its receipts of milk, and then prorate the shrinkage to the respective quantities of skim milk and butterfat in each class by using the handler's total reported utilization. In contrast to the current lengthy provision for assigning shrinkage, the new shrinkage provision would remove the necessity for computing shrinkage allowances on various sources of receipts.

Currently, the shrinkage provision maintains allowances for various sources of receipts. Milk that a handler receives at its plant on the basis of weights determined from its measurement at the farm and butterfat tests determined from bulk tank samples (farm weights and test) receives a 2 percent allowance to be classified as Class III. If the handler receives milk on other than farm weights and tests from a cooperative bulk tank handler or another pool plant, a 1.5 percent allowance is given to the receiving handler and a 0.5 percent shrinkage allowance is given to the bulk tank handler or other pool plant selling the milk. Any shrinkage assigned to pooled milk is assigned to Class III up to this allowance.

If a handler receives fluid *other source milk*, it receives a pro rata share of the total loss which is assigned to Class III without limit. Any shrinkage exceeding the total of these two assignments is assigned to Class I.

When comparing the dairy industry to other industries, there is a difference in how waste, or shrinkage, is handled. A non-dairy manufacturing plant has a certain amount of waste, and it pays the same for wasted material as that going into the product made. It does not pay less or assign a lower value for the ''shrinkage'' as is done in the dairy industry. Although some may argue that shrinkage should be assigned to the lowest class because handlers receive no return on milk losses experienced in the receiving and processing operations, a pro rata assignment should result in handlers' limiting milk loss throughout the dairy process. In a bottling plant, shrinkage would be assigned to Class I in a larger proportion than the current method. This would have the effect of creating more costs for a Class I handler. In other words, placing a higher value on shrinkage by having milk assigned pro rata to all classes, as is recommended, would encourage a handler to reduce costs associated with shrinkage, resulting in more efficient dairy operations. Also, as proposed here, shrinkage would be assigned to Class II for the first time. This would also encourage less shrinkage, hence, greater efficiency.

Pro-rata shrinkage assignment would more closely reflect the nature of the plant's operation. If milk is to be classified on the basis of form and use, it would appear logical that any loss associated with a particular use should be classified the same as the usage. If a handler has a high Class I utilization, it seems appropriate that the same utilization percentage would apply to its loss/shrinkage. A handler with a multi-class operation would have shrinkage prorated to all classes of utilization based on the percentage used in each class. If a handler has only Class III utilization, all shrinkage would be assigned to Class III.

In doing its cost accounting for Class I fluid milk, a handler would have to factor in the extra cost for shrinkage as part of its calculations. The handler would feel secure knowing that its competition is going to have the same method of prorating shrinkage applied to its operation. The benefit of greater uniformity is apparent. Class I handlers would have a greater incentive to operate more efficiently if they are to account for milk lost at the higher class

value; hence, greater consideration would be given to minimizing shrinkage to reduce costs.

The additional money paid into the pool by handlers operating pool distributing plants with high Class I utilization would not be offset by a lesser amount paid into the pool by handlers operating plants that manufacture primarily Class II and III products. Therefore, the blend price to producers would be enhanced by this change in the shrinkage rules, but it is estimated that it would be less than an average of one cent per cwt.

Historically, overage has been allocated pursuant to Section 44 (Classification of producer milk) starting with Class III. Since shrinkage would be assigned pro rata based on the utilization in each class, it would appear logical to assign overage on the same basis. Utilization would be adjusted to arrive at gross utilization. The references to overage and shrinkage would be removed from Section 44. In computing a handler's value of milk, the method of pricing overage in Section 60(b) would not change. However, the reference to Sections 44(a)(14) and 44(b) would be replaced with Section 43. Also, as explained under the discussion of ''General classification rules,'' Section 41 would be removed entirely and the remaining shrinkage provision would be incorporated in Section 43.

There would be minimal impact on the blend price by assigning overage before allocation begins rather than in the current step 14 of Section 44. The total value of milk classified plus the overage value would be the same using either method. However, if a handler had receipts from an unregulated supply plant or a plant regulated under another Federal order, the assignment of such receipts may be slightly different than the current assignment method.

Animal feed and dumped products should be removed from Class III in Section 40 and included in shrinkage. This would place less of a regulatory burden on handlers who are required to file reports regarding these types of disposition. It would also simplify market administrator auditing procedures considerably.

The suggestion to include a dollar credit at the difference between Class III and Class I prices for unaccounted milk was also considered. This alternative would result in additional time and resource allocation, and would not simplify the orders, but rather complicate them.

4j. Classification of Transfers and Diversions (§ 1000.42)

Certain changes should be made to the classification of transfers and diversions section of the orders to simplify and clarify order language. At the present time, in many orders if any milk that is diverted from one order to another for requested Class II or III use is assigned to Class I, the dairy farmer who shipped that milk is defined as a producer under the order receiving the milk with respect to that portion of the milk assigned to Class I. In other orders under similar conditions, the dairy farmer becomes a producer on the receiving order for all of the milk diverted even though only a portion of the milk was classified as Class I. When this type of adjustment is necessary, the diverting handler is informed by the market administrator's office that there is not enough Class II or III use remaining in the receiving plant to absorb all of the milk diverted. In such case, the diverting handler may pick which load or loads of diverted milk will become producer milk under the receiving order.

Since the orders are not precisely clear on how inter-order diverted milk should be handled, some modification is needed in the order language. Under most orders, and as provided in this proposed rule, milk may be diverted from one order to another for a requested use other than Class I. However, if there is not enough Class II, III, or IV utilization in the receiving plant to be assigned to the diverted milk, some milk may have to be assigned to Class I. When this happens, the practical administrative problems involve determining which milk of which dairy farmers and which loads of milk will be shifted as producer milk from one order to another.

Market administrators should be given some flexibility to handle these administrative problems on a market-by-market and case-by-case basis. As a practical matter, most milk diverted between orders is diverted by cooperative associations that reblend proceeds to their members. In most cases, it makes little difference to a cooperative association whether a dairy farmer is a producer on one order or another order; any differences in blend prices between the orders will be washed out in the reblending process. In the case of nonmember producers diverted inter-order, however, differences could arise in a producer's net proceeds for the month depending upon how much milk was pooled in each order. Therefore, these situations should be handled in such a way as to be least disruptive to individual dairy farmers.

A market administrator does not know until handlers' reports have been received that some portion of milk reported as diverted to another order cannot be absorbed by the amount of non-Class I utilization in the receiving order's plant. In such case, the diverting handler should be given the option of designating the entire load of diverted milk as producer milk at the plant physically receiving the milk. Alternatively, if the diverting handler wishes, it may designate which dairy farmers on the diverted load of milk will be designated as producers under the order physically receiving the milk. As a last resort, the market administrator would prorate the portion of diverted milk among all the dairy farmers whose milk was received from the diverting handler on the last day of the month, then the second-to-last day, and continuing in that fashion until the diverted milk that is in excess of Class II, III, and IV use has been assigned as producer milk under the receiving order.

A conforming change that should be made in each order relates to milk that is transferred or diverted for Class II or III use. Presently, milk may be transferred or diverted on a requested Class II or III basis. However, with 4 classes of utilization recommended for the new orders, milk could be diverted for requested Class IV use also. Rather than specifying ''Class II, III, or IV,'' however, the orders should simply state ''other than Class I'' to accommodate a system of more than 3 classes. This language is simpler, shorter, and accomplishes the same end.

Comments received from interested parties involving transfers and diversions suggested general simplification and clarification of order language, as well as some suggestions on how to facilitate the administration of these provisions. Generally, the comment letters suggest that the orders be amended so that inter-market transfers are allocated to Class I in the same manner as transfers within markets. These letters state that, otherwise, a barrier to the movement of milk is created. It was argued that such modification would help to assure distributing plants an adequate supply of milk for fluid use whenever and wherever it is needed. Other comments argued that if a shipment between orders is designated as Class I, it is only logical and fair that the entire shipment should be Class I, rather than be subject to current pro rata allocation procedures. Proponents of this view argued that this would lead to a more

equitable situation in the treatment of inter- and intra-order transfers, allow for greater equity among handlers, and contribute to the simplification and reduction of administrative procedure and cost.

A cooperative association and a handler filed comments endorsing a prelimary suggestion of allowing milk to be diverted inter-order for any use, but a dairy farmer association submitted one comment critical of the idea. The association which opposed the idea implied that milk received on a diverted basis from another order would get a priority Class I assignment over local producer milk. This was not the intention behind this suggesion. Any milk that was diverted from one market to another would have been assigned based upon the lower of the receiving plant's Class I utilization or the receiving market's Class I utilization. In view of the concern about the possible impact of permitting milk to be diverted for any use between orders, no change in this regard is proposed for the consolidated orders.

Inter-order transfers would continue to be allocated based on the lower of the receiving plant's or receiving market's utilization rate. Preference should not be given to such other order bulk milk in the manner suggested by various commenters. Even within markets with high Class I utilization rates, there are times when milk is used in surplus products, and classified as other than Class I. There is no reason why milk from an other order should be classified as completely Class I when local milk inevitably is classified other than Class I. Both types of receipts should share equally in the Class I and surplus utilization.

In § 1000.42(d)(2)(i), the phrase, ''excluding the milk equivalent of both nonfat milk solids and concentrated milk used in the plant during the month,'' is proposed to be added to this sub-paragraph to more directly arrive at transfer and diversion classification on the basis of the assignment of a nonpool plant's utilization to its receipts. The recommended modification will prevent unnecessary accounting steps which serve no purpose in verifying the utilization at the nonpool plant. In classifying receipts of fluid milk and cream products at nonpool plants from Federal order plants, an accounting balance function serves no purpose.

In § 1000.42(d)(2)(vi), the allocation process for bulk fluid milk transferred from pool plants to nonpool plants is proposed to be modified such that any remaining unassigned receipts of bulk fluid products be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization and then to all other utilization, in sequence beginning with the lowest class at the nonpool plant. This change returns the order language to the assignment sequence that was adopted in the Uniform Classification Decision of 1974. Receipts from pool plants should not be given preference by assigning such milk to the available Class II use before assigning receipts from dairy farmers who constitute the regular source of milk for such nonpool plant. Generally, milk transferred or diverted from pool plants to nonpool plants is surplus milk and would be used in storable manufactured products, such as nonfat dry milk and butter. By assigning transferred or diverted milk to a nonpool plant's Class II utilization first, the pool plant operator is forced to account for this milk at the Class II price, even though the nonfat dry milk or other surplus product that was made with the milk is of a lesser value. This process will prevent the assignment of receipts at a higher utilization than the actual utilization.

Receipts of bulk fluid cream products at nonpool plants from pool plants and plants regulated under other Federal orders, similarly, would be assigned to the lowest class utilization first. Generally, a plant operator will use its regular source of supply in the highest valued uses before using alternative supplies. Thus, if a nonpool plant receives cream from a pool plant or a plant regulated under another Federal order, it is likely that the regulated plants were trying to dispose of their excess cream. The nonpool plant receiving the cream will most likely use it for manufacturing purposes; therefore, it should be assigned to the lowest class first. The priority given to regular source supplies is recognized and the provision modified to reflect this.

4k. General Classification Rules (§ 1000.43)

For classification purposes, the milk of a cooperative bulk tank handler—i.e., ''a 9(c) handler''—should be treated as ''producer milk'' of a pool plant operator. This change will shorten and simplify the allocation section. Accordingly, paragraph (a) of Section 43, as revised, no longer contains a reference to the classification of producer milk with respect to a handler described in Section 9(c).

The computation and classification of shrinkage and overage have been added to this section. This will eliminate Section 41, the section previously used for this purpose. Also, the last paragraph of Section 43 should be removed because milk for Class IV use now would be classified in Section 44 of the orders.

4l. Classification of Producer Milk (§ 1000.44)

A handler may receive milk from a producer, a cooperative association acting as a handler on bulk tank milk, by transfer from another pool plant, or from ''other sources'' such as nonpool plants, partially regulated plants, and plants that are regulated under other orders. Because of this diversity in sources of receipt, it is necessary in a milk order to go through an allocation sequence to determine which source of milk gets priority to a particular class of utilization and to determine how producer milk was used. In some orders, this allocation sequence is done on a system-wide basis; in others, it is done for each plant receiving producer milk.

Section 44 is one of the most complicated and difficult-to-understand sections in a milk order. Consequently, an attempt has been made to simplify and shorten it. Part of this task was made easier by proposed changes to other sections (e.g., elimination of filled milk, elimination of individual handler pools, and modification of the treatment of inter-order transfers and diversions). Also, because shrinkage and overage are prorated to a handler's gross utilization, these items do not have to be allocated.

All orders are not now uniform in the classification of producer milk. For example, some orders (e.g., Chicago Regional) provide for system allocation while others allocate receipts on a plant-by-plant basis for a multiple plant handler.

Under the consolidated orders, milk would be allocated on a plant-by-plant basis, as modified to reflect the other changes proposed herein. The system allocation method that is found in some orders is based upon a set of marketing conditions concerning the locations of handlers' plants and the market's available milk supply in relation to those plants. These provisions were intended to stop abuses that occurred when milk was imported from one market to another. Rather than permit an inter-order transfer to be assigned at a handler's high Class I utilization plant, while the handler's producer milk was assigned to lower use value at another of its plants, the system allocation provisions assigned the transfers on the basis of the handler's utilization at all plants combined. The objective was to prevent more distant other order milk from being assigned to Class I use at the expense of producers who were located nearer to the city markets and who represented the normal source of supply for the markets' fluid milk needs.

The 11 new orders proposed here do not fit within the parameters of the classical model where a major consumption area is surrounded by production areas. The marketing areas proposed for the consolidated orders span several states and have a number of major population centers. They also have pockets of milk production that, in a number of cases, are in higher-priced areas than some of the fluid milk plants within the marketing area. This milk may not be economically available to a fluid milk plant several hundred miles away. In fact, it may be that a plant near the periphery of a multi-state market may find its closest and cheapest source of supply from outside the market rather than from within the marketing area. Accordingly, the foundation on which the system allocation rules are based does not support current marketing conditions. Therefore, all orders are proposed to be modified to allocate milk only on a plant-by-plant basis rather than on a system basis.

Another change that should be made in the allocation section concerns the ''98/2'' rule. At the present time, only 98 percent of the packaged fluid milk products transferred between orders is allocated to Class I; the remaining 2 percent is allocated to Class III. This provision, originating from the June 19, 1964, ''compensatory payment'' decision, was adopted to provide an allowance for ''route returns.'' According to that decision, ''it is reasonable to expect some route returns will be associated with inter-market transfers just as there are in connection with milk locally processed in the receiving market * * * a small allowance of 2 percent for such returns, which must fall into surplus use, should be included to avoid such over-assignment in Class I.'' (29 FR 9120).

The 2 percent Class III allowance on inter-market packaged transfers would be eliminated. As explained above in connection with the proposed changes to the shrinkage provisions, animal feed and dumped products would no longer receive an automatic Class III classification, but instead would be treated as shrinkage and prorated to the plant's utilization. Similarly, inter-order packaged transfers would no longer receive an automatic Class III classification for 2 percent of those transfers but instead should be allocated 100 percent to Class I utilization.

In § 1000.44(a)(3)(iv), some new language to most, but not all, orders is proposed to be added to make it clear that *any* fluid milk products received by a regulated handler from a producer-handler will be assigned to the receiving handler's lowest utilization available whether such products are physically received at the regulated handler's plant or whether they are ''acquired for distribution'' at some other location. The additional words, ''acquired for distribution,'' would clarify the application of this provision in those orders that do not now contain this language.

A key basis for exempting producer-handlers from regulation rests on the presumption that producer-handlers will be responsible for disposing of their surplus milk. This is why milk received from a producer-handler is down-allocated to the lowest possible utilization. If this were not done, a producer-handler could undercut the minimum order Class I price by selling its surplus milk to regulated handlers for fluid use.

In some isolated cases, producer-handlers have avoided lowest-class pricing of their surplus milk by selling their packaged fluid milk products to regulated handlers at a non-plant location, such as a warehouse, from which it is then distributed on routes by the regulated handler. Under some orders, this milk would not be considered a receipt from a producer-handler and thus would not be priced. As proposed herein, however, such fluid milk products that are acquired at the non-plant location will nevertheless be treated as if they had been received at the regulated handler's plant and will be priced accordingly.

In addition to the changes discussed above, Section 44 is proposed to be shortened and simplified by removing unnecessary references that serve to confuse the language rather than make it easier to understand. Where possible, simpler language has been used to replace lengthy section references.

4m. Conforming Changes to Other Sections (§§ _____.14, _____.41, and _____.60)

Paragraph (b) of § _____.14 should be removed to reflect the fact that all packaged fluid cream products now would be accounted for on a used-to-produce basis. Also, as previously noted, the simpler and shorter treatment for shrinkage shortens the existing provision to the point where it is no longer necessary to keep a separate section for it. Therefore, Section 41 should be eliminated and the revised contents of that section should be incorporated as a new paragraph (b) in Section 43. Finally, conforming changes should be made to Section 60 (Handler's value of milk for computing the uniform price) to reflect the elimination of filled milk from the order, and to reflect changes in references due to other modifications such as the changes in the treatment of shrinkage and overage.

4n. Organic Milk

During the development stage of the order reform process, a proposal was received from Horizon Foods to exempt organic milk from pricing and pooling under Federal milk orders.

In 1990, Congress passed, and the President signed into law, the *Organic Food Production Act of 1990* (7 U.S.C. 6501 *et seq.*), establishing the first Federal standards for organic food products. A proposed rule was issued on December 5, 1997, and published in the **Federal Register** on December 16, 1997 (62 FR 65849), to implement the National Organic Program.

Organic dairy products can now be found in many, if not most, major grocery chains in metropolitan areas. The retail price of organic dairy products is well above non-organic products. For example, in one Washington-area supermarket a half-gallon of regular 1% milk sells for $1.59, while a half-gallon of Horizon Organic 1% milk sells for $2.29. In addition to carrying organic milk, many supermarkets now also carry organic yogurt, sour cream, butter, and other organic dairy products. All of these products are priced well above their non-organic counterparts.

Processors of organic milk have asked for exemption from Federal regulation. In a May 20 letter to the Department, Horizon Foods argued that (1) organic milk is a different commodity; (2) the market for organic dairy products is a niche market; and (3) Federal order regulation of organic milk is contrary to the intent of the Organic Foods Production Act because it does not ''facilitate interstate commerce in fresh and processed food that is organically produced.'' Horizon's proposed solution is to exempt organic milk from the producer milk definition if the milk is produced on a certified organic farm and if the broker pays the producer at least 110% of the month's Class I price for such milk.

The proposal to exempt organic milk from Federal order pricing should be denied for several reasons. First, contrary to the assertions of Horizon Foods that all organic milk is priced at 110% of the Class I price, regardless of how the milk is used, there is evidence that some organic milk is pooled and priced as non-organic milk under some orders, including the Chicago Regional and Southern Michigan orders, for example. Second, if special treatment is provided for organic milk, a ''Pandora's box'' would be opened for special treatment for other kinds of milk as

well. Third, although the retail price of organic milk is well above non-organic milk, many people believe that organic milk competes with the regulated market and, therefore, also must be fully regulated. Fourth, if Congress wished to exempt organic milk from Federal milk order regulation, they could have done so either in the Organic Foods Production Act or in the 1996 Federal Agricultural Improvement and Reform Act; but they did not. Fifth, there is no indication that all processors of organic milk price their receipts the same way as Horizon Foods. Even if they did, however, the one class/one price system currently used by Horizon could be a temporary phenomenon due to the rapidly expanding market for organic products. The day may come when the organic market becomes saturated and milk in excess of fluid needs must be disposed at competitive prices. If and when this happens, it is likely that some form of classified pricing will be implemented. Finally, the Act provides for classifying and pricing milk on the basis of its form and use. As a result, different costs that may be associated with producing organic milk or other types of milk are not relevant. For these reasons, it would be inappropriate at this time to exempt organic milk from pooling or to provide any other type of special treatment for it under the guise of Federal order reform.

4o. Allocation of Location Adjustment Credits

A provision that is now common to most orders is not suggested for the proposed consolidated orders. This provision, which allocates location adjustment credits that are applied to transfers of bulk fluid milk products between pool plants, is commonly found in Section 52 of most current orders (See, for example, §§ 1001.53(h), 1007.52(b), 1030.52(c), or 1079.52(d)).

Under most orders, intra market shipments of milk between handlers are assigned to Class I use, unless both handlers agree on a lower classification. Milk that is assigned to Class I use is priced at the receiving plant subject to a location adjustment credit that may apply if it is demonstrated that such milk is actually needed for Class I use. If the credit is applied, the milk is priced at the transferring plant. This assignment of location adjustment credits is intended to prevent the use of pool proceeds to pay the hauling cost for the transfer of bulk milk between pool plants when the intended use of the milk is for other than Class I use.

To carry out this concept, the provision typically assigns a pool distributing plant's Class I use first to its milk receipts directly from producers, then to bulk milk received from a cooperative bulk tank handler, then to milk received by diversion from another pool plant, and then to packaged fluid milk products received from other pool plants. The remaining Class I use in the distributing plant is then assigned to bulk milk received by transfer from other pool plants. In some orders, this remaining Class I use is assigned pro rata to all of the pool plants from which bulk milk was obtained. In other orders, the remaining Class I milk is first assigned to pool plants with the same Class I price and then, in sequence, to pool plants with progressively lower Class I prices.

This provision has varying usage in orders today. Some orders use it; but most orders never use it. Accordingly, it is not clear whether it should be included in the consolidated orders.

This proposed rule is based on the premise that Class I milk does not have the same value at every location. For this reason, Class I differentials have been established for each order with location adjustments that result in establishing a unified Class I price structure that applies to every county and city in the contiguous 48 states. Given this approach, it may no longer be necessary to classify a bulk movement of milk as Class I milk in one section of the order and then in another section of the order depart from the principle of pricing such Class I milk at the plant where it was physically received.

Some of the proposed orders have transportation credit provisions that provide for hauling credits on bulk milk received by transfer from a plant regulated under another Federal order and assigned to Class I use at the receiving plant. To arrive at the classification of such milk, the milk is assigned to the lower of the receiving plant's or the receiving market's Class I utilization. With the long distances exhibited by milk movements today and the use of transportation credit provisions that help defray the costs for such movements, it may not be appropriate to continue location adjustment credit provisions that could discourage milk from being transferred from pool plants located closer to distributing plants needing supplemental supplies of milk.

In actual practice, a distributing plant does not receive a fixed amount of milk each day of the week. Some days are heavy bottling days when more milk is needed for Class I use. On such days, a distributing plant may not be able to obtain enough local milk to meet its Class I needs and may have to import plant milk from more distant locations. At the end of the month, however, when the allocation of location adjustment credits takes place, it may appear that there was more than enough local milk to meet the distributing plant's fluid needs, even though this was not the case when recapped on a daily basis. Nevertheless, the allocation provision allocates location adjustment credits based on monthly volumes of milk, not daily volumes, so the supply plant could be in a position where it receives no Class I location adjustment credit even though the milk was indeed shipped for Class I use.

Finally, the current application of the provision in question can result in a situation where there is more incentive to receive bulk milk transferred from a plant regulated under another Federal order than from a plant regulated under the same order, whether or not any other transportation credits are involved. Should this occur, it can result in a transfer of Class I sales to the transferring plant's Federal order market.

5. Provisions Applicable to All Orders

In addition to the terms and conditions of milk orders previously described, there are a number of other provisions that need to be contained in milk orders that describe and define those affected by the regulatory plan of the program and that provide for common descriptions of entities, persons, terms of measurement, pooling, and other administrative needs so that an order can be administered effectively. Many of these provisions can be uniform across all proposed consolidated orders. However, different marketing conditions in the consolidated areas, together with institutional factors, do not lend themselves to an entirely uniform set of provisions for all orders. Consequently, in each of the proposed consolidated orders there are provisions that are unique to each order.

As part of the reform process, an Identical Provisions Committee (IPC) was established to investigate and recommend needed order provisions that could be uniformly applied across the consolidated system of Federal milk orders. The IPC was formed with a three point purpose: to develop Federal order provisions that can or should be uniform among orders, to explain why the adoption of the recommended provisions are needed, and to simplify and streamline proposed order provisions where feasible. While the previously discussed issues such as classification, the basic formula price, and Class I milk pricing lend themselves to uniform applicability across all

orders, the IPC mission tended to focus on other aspects of milk order provisions such as uniform definitions, pooling criteria, reporting requirements and handler payment obligations.

This part of the proposed rule discusses the nature of the proposed consolidated order provisions, explains why they are needed, and details whether or not a provision can be uniformly applied in all consolidated orders. When a provision does not lend itself to uniform application, the provision is described in subsequent sections of this proposed rule where the provisions unique to each of the individual orders are discussed.

To the extent that provisions can be uniformly applicable across all of the proposed consolidated orders, they are included in Part 1000, the General Provisions of Federal Milk Marketing Orders which are, by reference, already a part of each milk order. Thus, as proposed here, the General Provisions includes the definitions of *route disposition, plant, distributing plant, supply plant, nonpool plant, handler, other source milk, fluid milk product, fluid cream product, cooperative association,* and *commercial food processing establishment.* In addition, the General Provisions include the milk classification section of the order, pricing provisions, and most of the provisions relating to payments. These additions to the General Provisions should make milk order provisions more understandable to the general public by removing the differences that now exist and by consolidating uniform provisions in one place. Thus, an interested person would only have to read one ''nonpool plant'' section, for instance, to understand how that term is applied to all orders. By contrast, at the present time, ''nonpool plant'' is defined in every order and there are slight differences in the definition from one order to the next.

Pooling Issues

How producers share in the additional revenue that is derived from classified pricing is one of the most important features of a milk marketing order. How milk is pooled sets the basis for returning a blend price to producers by accounting for the use-value, or classified value, of milk charged to handlers. Marketwide pooling is the method advocated for distributing these returns as indicated by an overwhelming majority of public participants. It is the prevailing method employed in the current system of milk orders, and should continue to be employed in the consolidated orders.

There were a number of proposals and public comments considered in determining how Federal milk orders should pool milk and which producers would be eligible to have their milk pooled in the consolidated orders. In the broadest sense, most public comments and proposals advocated a policy of liberal pooling, thereby allowing the greatest number of dairy farmers the ability to share in the economic benefits that arise from the classified pricing of milk. While there were also a number of public comments supporting identical pooling provisions in all orders, other proposals voiced comments on the need to have pooling provisions reflect the unique and prevailing supply and demand conditions in each marketing area. Fundamental to most pooling proposals and comments was the notion that the pooling of producer milk should be *performance oriented* in meeting the needs of the fluid market. The pooling provisions proposed for the consolidated orders provide a balance between reasonable and needed performance criteria and a liberal pooling policy.

The pooling provisions for the consolidated orders are overall less restrictive in the movement of milk between orders and make it easier for producers to become associated with and pooled on a market. Additionally, the provisions are more ''market oriented'' because they allow milk to become pooled and priced where the greatest needs are exhibited for satisfying fluid demands. Additionally, there is enhanced flexibility in how plants can be pooled without diminishing the ability of the regulatory plan to satisfy the fluid demands of a market. For example, this decision recognizes that in some markets, fluid milk processors handle a significant volume of milk for Class II uses. Much of the time this milk may be processed in a separate processing plant. To accommodate this, *unit pooling* is an option if at least one plant of the unit qualified as a pool distributing plant and the other plants of the pool unit are located in the marketing area and process only Class I or Class II products. The separate processing plant would also need to be located in the same or lower price zone than the qualifying pool distributing plant. For supply plants, *system pooling* offers flexibility where handlers operate more than one supply plant. Further, the consolidated orders have identical performance requirements for pooling cooperative and proprietary handlers alike, thereby making plant ownership irrelevant for pooling purposes.

Pool plant eligibility continues to be dependent upon plant operators and handlers meeting certain performance standards geared to satisfying the fluid demands of the market. Because of differences between the consolidated markets, mainly the level of Class I demand and the seasonality of milk production, a uniform standard for pool plants for the consolidated markets is not recommended. Such standards need to be specific to each of the consolidated orders. Additionally, the market administrator should be authorized to react to changing market conditions if there is a need to change performance standards and to promote the efficient movement of milk and in satisfying expected demands of the fluid market. These needs are reflected and accommodated in the definitions of the types of pool supply plants in the consolidated orders. Providing for differences between markets ensures more equitable distribution of the benefits and burdens of marketwide pooling.

Taken as a whole, the pooling provisions also are designed to properly specify which producers are associated with the marketwide pool, thereby assuring their ability to share in the economic benefits that accrue from classified pricing. Orders do require some criteria for determining when a producer has an association with a market under which their milk will be pooled and priced. In this context, a minimal ''touch-base'' requirement for producer milk is called for in most consolidated orders for pooling qualification. This provision allows a producer's milk to be received at a pool plant a minimum number of times to be eligible for diversion to nonpool plants thereby ensuring that the milk is available for fluid use if needed.

The producer and producer milk provisions for the consolidated orders also recognize that disorderly marketing conditions can arise from the actions of handlers that seek to pool milk on an order only when more favorable alternatives are not otherwise available. Reasonable measures are provided to prevent producers who are not regularly a part of a marketwide pool from deriving the benefits of the marketwide pool if certain performance criteria are not met. Similarly, it is recognized that producer milk might not be pooled because of changes in class-price relationships in any given month. Public comments and proposals offered to address these issues included ''lock-in'' or ''lock-out'' provisions that, as proposed, would have the effect of regulating producers. They are not recommended. The provisions

presented for both the producer and producer milk definitions provide reasonable measures and safeguards for determining conditions where producers and their milk should participate in a marketwide pool without causing producers to become regulated in their capacity as producers.

A suggestion for ''open pooling,'' where milk can be pooled anywhere, is not provided for in the consolidated orders. There are two reasons for this. First, open pooling is not based on performance, that is, open pooling provides no reasonable assurance that milk will be made available in satisfying the fluid demand of a market. Second, advocates of open pooling have presented this pooling option in the context of a ''package'' of other order provisions, including Class I pricing, that conflict with the method of Class I pricing recommended in this decision. For this reason open pooling is unworkable. For this reason also, proposals to create and fund ''stand-by'' pools are similarly rejected.

Where a handler's plants are regulated continues to be based primarily on the basis of where sales are made, rather than where plants are physically located, with only minor exceptions. The change in where a distributing plant will be regulated will require a reasonable measure of at least three consecutive months of more sales in another market area before the regulatory status of a plant and producer milk associated with the plant will shift to another milk order. Supply plants will be regulated under the order in which the greatest portion of its qualifying shipments have been made.

The proposed definition of an exempt plant recognizes that some handler operations are too small to have a significant impact on the competitive relationship of competing fluid processors in the market. In recognition of this, the amount of milk for an exempt plant has been liberalized without references to daily average deliveries criteria that are currently applicable in some orders.

Route Disposition

Route disposition is a measurement of sales used to determine a distributing plant's association with a marketing area. It is defined to mean the amount of milk delivered by a distributing plant to a retail or wholesale outlet (except a plant), either directly or through any distribution facility (including disposition from a plant store, vendor or vending machine), of a fluid milk product in consumer-type packages or dispenser units that is classified as Class I milk.

The recommended route disposition definition differs from the definition contained in some current orders. Presently, the route disposition definition of several orders makes reference to plant movements of packaged fluid milk products between distributing plants with respect to determining if such transfers should be considered ''route disposition'' of the transferring or receiving plant. As proposed here, however, this issue is addressed in the pool plant section, which deals with the pooling standards applicable to a distributing plant.

Plant

A plant definition is included in all orders to specify what constitutes an operating entity for pricing and regulatory purposes. As provided in § 1000.4 of the General Provisions, a *plant* is the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged. This is meant to encompass all departments, including those where milk products are stored, such as a cooler. The plant definition does not include a physically separate facility without stationary storage tanks that is used only as a reload point for transferring bulk milk from one tank to another, or a physically separate facility that is used only as a distribution point for storing packaged fluid milk products in transit for route disposition.

To account for regional differences and practices in transporting milk, some orders provide for the use of reload points for transporting bulk milk that do not have stationary storage tanks.

Farm-Separated Milk

With the advent of new technology for on-farm separation of milk into its components, some additional regulatory language is needed to specify who is the responsible handler for the milk or milk components leaving the farm and how these components will be classified and priced. This determination will be based, in part, on whether the farm processing facility is a plant.

Ultrafiltration (UF) is a membrane process that transfers water and low-molecular weight compounds through a membrane while retaining suspended solids, colloids, and large organic molecules. It selectively fractionates some milk solids components and selectively concentrates other solids components of milk.

When a UF membrane is used, water, lactose, uncomplexed minerals and other low-molecular-weight organic compounds pass through the membrane. For example, if unaltered milk containing 3.5 percent fat, 3.1 percent protein, and 4.9 percent lactose is run through a UF membrane until half of the original volume is eliminated, the remaining product not passing through the membrane (i.e., *retentate*) will contain all of the fat and protein but only half of the lactose. The *permeate* (i.e., that part of the original milk that does pass through the membrane) will contain water, lactose, non-protein nitrogen, and about one-sixth of the minerals.

Reverse osmosis (RO) is also a membrane process, but the membranes have much smaller pores than UF membranes, allowing only the water to pass through. The end product essentially is concentrated milk.

At the present time, both reverse osmosis and ultrafiltration systems are being utilized on some farms, principally large farms in the southwestern United States. The product shipped from these farms (i.e., the *retentate*) currently is sent to processing plants for use in manufactured products but it could be used in a range of milk products.

The retentate received from a farm with a UF or RO system will be treated as producer milk at the pool plant at which the milk is physically received or, if the retentate is shipped to a nonpool plant, as producer milk diverted to a nonpool plant. In either case, the milk or milk components will be priced at the pool plant or nonpool plant where the milk is physically received.

To be considered a farm and a producer, as opposed to a plant and a handler, an RO or UF unit must be under the same ownership as the farm on which it is located and only milk from that farm or other farms under the same ownership may be processed through the unit. The producer operating the unit shall be responsible for providing records of the daily weights of the milk going through the unit. Also, the producer must provide samples for each load of milk going through the unit and must furnish the receiving plant with a manifest on each load of retentate showing the scale weight along with samples of the retentate. Finally, the producer operating the RO or UF unit must maintain records of all transactions which must be available to the Market Administrator upon request. If the producer does not meet these recordkeeping and reporting requirements, the unit will be considered to be a plant.

RO and UF retentate will be considered to be producer milk at the plant which receives it. The pounds of

RO and UF retentate received will be priced according to the skim-equivalent pounds of such milk. The skim-equivalent pounds for RO retentate will be determined by dividing the solids-not-fat pounds in the retentate by the average producer solids-not-fat in the skim portion of the producer milk used in the product. The butterfat pounds would then be added to this number to arrive at the product skim-equivalent pounds.

In computing the fluid equivalent of UF retentate, the fluid equivalent factor should be computed by dividing the true protein test in the skim milk portion of the retentate by the true protein test in the skim milk portion of the producer milk used in the product. Adding the butterfat pounds to this computation will yield the product equivalent pounds.

In addition to having UF and RO equipment, some farms today may have a separator to separate skim milk from cream before they leave the farm. Rules must also be established for this type of operation.

Skim milk and cream going through a farm separator also should be treated as producer milk if received at a pool plant or diverted to a nonpool plant. The producer will be required to obtain scale weights and tests on each load of skim and cream shipped along with samples of each. The same ownership, recordkeeping, sampling and reporting requirements that apply to RO and UF units will also be applicable.

In formulating a policy for the treatment of RO and UF retentate, it is important to recognize that the milk produced on a farm with RO or UF equipment is fully available to meet the needs of the fluid market, either before or after passing through such units. Therefore, there should be no question concerning the propriety of pooling this milk along with other producers' milk.

At this writing, the Food and Drug Administration (FDA) has not yet decided whether UF retentate can be reconstituted and sold as fluid milk. However, FDA has approved the use of UF retentate in certain cheese products on a trial basis. Therefore, before receiving UF retentate for use in any product, handlers should be certain that such use has been approved by the FDA.

Distributing Plant

A *distributing plant* is defined as a plant that is approved by a duly constituted regulatory agency to handle Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition. The time and location of route disposition are included in the distributing plant definition in some current orders. However, whether route disposition occurred during the month or, within the marketing area, are more appropriately determined to be pooling issues. Therefore, they are discussed and included in each consolidated order's pool plant definition.

Supply Plant

A *supply plant* is a regular or reserve supplier of bulk milk for the fluid market that seasonally contributes to coordinating the supply of milk with the demand for milk in a market. As defined in this decision, a supply plant is a plant other than a distributing plant that is approved by a duly constituted regulatory agency to handle Grade A milk and at which fluid milk products are received or from which fluid milk products are transferred or diverted.

Pool Plant

The *pool plant* definition of each proposed consolidated order provides standards to distinguish between those plants engaged in serving the fluid needs of the marketing area and those plants that do not. Pool plants serve the market to a degree that warrants their producers sharing in the added value that derives from the classified pricing of milk. While the pool plant definition in every consolidated order provides for a set of common principles, the definition is specific and unique to each consolidated order.

Each type of pool plant can be generically described to share certain common characteristics. However, to the extent that marketing conditions and other related factors vary across the country, the proposed consolidated orders need differing terms of applicability and performance standards in order to determine the regulatory status of a plant.

All *pool distributing plants* in the consolidated orders will base pool plant status on two performance measures: (1) the proportion of its route disposition to bulk receipts, and (2) the proportion of route disposition in the marketing area. If a pool distributing plant operates in more than one market, the plant's primary association with a marketing area generally will be determined on the basis of where the majority of fluid sales occur. In the event that a plant is not primarily associated with any marketing area, it will be regulated in the marketing area in which it is located provided the plant meets the order's pooling standards. If it is not located within any marketing area, it will be regulated wherever it has the most route disposition.

Performance standards for *pool supply plants* are designed to attract an adequate supply of milk to meet the demands for fluid milk in a market. Historically, a pool supply plant did not include any portion of a plant that was not approved for handling Grade A milk and that was physically separated from a portion of the plant that had approval. Currently, inspection agencies most commonly render only one type of approval for an operation, but provision is made to designate a physically separated portion of the plant as a ''nonpool plant.''

Types of Pool Plants and Pool Qualifications Pool Distributing Plant

Many orders presently refer to Grade A milk in defining a pool distributing plant. However, a distributing plant, by definition, can only handle Grade A milk, so this qualification is redundant and has been removed from the structure of the pool plant section. Also, as proposed here, the proportion of route disposition to receipts is derived from a divisor of receipts of bulk fluid milk products as opposed to receipts of total fluid milk products.

The recommended ratio of route disposition to total receipts of bulk fluid milk products for *pool distributing plant* qualification will vary among orders, but for most orders it will be at least 25 percent. This is the lowest ratio currently used among all orders, and will prevent depooling of plants that presently enjoy pool plant status. To the extent this percentage is found to be too low for certain milk ''deficit'' regions, higher percentages are provided in those proposed consolidated orders.

Performance standards are also needed to establish a minimum threshold of market participation, as measured by route dispositions in a marketing area, which when met or surpassed, cause a distributing plant to be fully regulated in that market. Currently, the proportion of route disposition in the marketing area is expressed in some orders as a percentage of total route disposition and in other orders as a percentage of total receipts of fluid milk products. A percentage of total route disposition is recommended for the consolidated orders.

Some current orders require a daily average minimum of route disposition in the marketing area. This standard has been removed because it is covered under the exempt distributing plant definition described below. The recommended ratio of 15–25 percent of a plant's route disposition in the marketing area provides a reasonable measure of a distributing plant's

association with a marketing area, while, at the same time, precluding a change in the regulatory status of plants that are currently partially regulated or regulated by a state regulatory program.

To facilitate proper administration and accounting, all orders currently provide that packaged fluid milk products transferred from one handler to another be treated as interhandler transfers, with each transaction properly identified and specifically reported to affected market administrators. This should continue in the consolidated orders. However, for the single purpose of qualifying a plant as a pool distributing plant, a subsection in each consolidated order is included to address the transfer of packaged fluid milk products to a distributing plant. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant rather than the receiving plant. In addition to transfers that occur for sales in the marketing area, this subsection is also meant to address the concern of properly pooling a plant with sales outside of the marketing area that are made through another plant. This is necessary to preclude a plant from becoming partially regulated if the plant shipped significant quantities of packaged fluid milk products to another distributing plant.

Pool Supply Plant

Currently, pool supply plants are generally defined by their association with a marketing area and their ability to move milk to pool distributing plants that service the marketing area. Pool supply plants should continue to be defined in this way. However, the pool supply plant definition does not lend itself to uniform application in all consolidated orders. Therefore, pool supply plant performance standards should be established according to regional needs. The specific standards adopted in each order are described in the pool plant section of each new order. For orders outside the southeastern United States, provisions are provided for two types of supply plants: a *pool supply plant* and *pool reserve supply plant.* Pool reserve supply plants are generally defined as plants located within the marketing area that are involved primarily in manufacturing nonfluid milk products. They nevertheless serve to balance the market by providing a ready supply of fluid milk when needed and a manufacturing alternative when milk for fluid uses is not needed. By contrast, pool supply plants are generally defined as plants involved predominately in the assembly of raw milk supplies at the farm and shipment of these supplies to distributing plants. There are proposed marketing areas where just a pool supply plant provision would be adequate, without the additional distinction of a pool reserve supply plant. For those marketing areas where it is preferable to distinguish between plants located in and out of the marketing area, different performance requirements are recommended to fit the needs of the consolidated order.

Pool Reserve Supply Plant

A pool reserve supply plant is defined as a plant capable of handling the reserve milk required for a marketing area that also stands ready to make milk available to meet the fluid needs of the market. Such a plant must be approved to handle Grade A milk, and must be located in the marketing area. In addition, the plant must provide milk in fluid use to pool distributing plants certain month of the year when milk production declines. Finally, a *reserve supply plant* must apply for, and receive, formal acknowledgment of pool status by the market administrator. Because deliveries of a pool reserve supply plant to a distributing plant will specify seasonal performance standards, they cannot be uniform across all orders. Therefore, each proposed consolidated order having a pool reserve supply plant definition will differ with respect to the level and timing of performance required.

In qualifying a supply plant's milk receipts for pooling, several current orders allow direct milk shipment from farms to distributing plants, while other current orders require all of the milk, or at least some of it, to be transferred through a plant. Transferring deliveries through a plant may often be uneconomical and inefficient when compared to the direct delivery of milk from farms. Therefore, for most of the consolidated orders, both supply plants and reserve supply plants are allowed the flexibility to meet delivery requirements by direct deliveries from farms to distributing plants if the supply plant operator deems that to be the most efficient means of moving milk.

A number of orders currently provide for special pool status for supply plants located in the marketing area but such status is generally limited to cooperatives. Several of the orders which have this provision will retain it under the consolidated orders. In other orders, however, especially those with many manufacturing plants operated by proprietary handlers, ownership distinction as a condition for pool reserve supply plant status has been removed. This should promote increased handler equity in the ability for plants to compete for milk supplies and for producers associated with such plants to have their milk priced and pooled under the order. Additionally, there are manufacturing plants located in some marketing areas that are currently designated as pool plants. This provision will ensure the retention of pool status of such plants.

Location in the marketing area should also be a requirement for pool reserve supply plant status. This is recommended because it will preclude the pooling of a plant that is outside the marketing area and not in a position to economically supply the market with supplemental milk or to efficiently handle its reserve supplies. In addition, it will preclude the pooling of milk on a market when such milk has no real association with the market at all and only serves to lower a market's Class I utilization, thereby making it more difficult to attract milk needed for fluid use. When a distributing plant needs more milk, a reserve supply plant located in the marketing area can most rapidly and economically route milk directly to where it is needed.

For those orders providing for reserve supply plants, pool plant status will be conveyed by the market administrator after notification is filed in writing by the plant operator. The notification should be filed no later than June 15 of each year. Pool status would begin on July 1 of the same year and continue for the remainder of the year unless: (1) the plant operator later requests nonpool plant status; (2) the plant subsequently fails to meet the specified performance standards, or; (3) the plant qualifies as a pool plant under another Federal order. If a plant operator requests nonpool status for any month, such nonpool status should remain in effect until the following June, when the cycle of notification for pool reserve supply plant status begins anew. Notification to the market administrator serves to demonstrate a commitment to the market and to act as a deterrent to temporary changes in pooling status to the detriment of the market.

Pooling Options

Unit pooling. Unit pooling allows two or more plants located in the marketing area and operated by the same handler to qualify for pool status as a *unit* by meeting the total and in-area route disposition standard as if they were a single pool distributing plant. To qualify as a *unit,* at least one of the plants in the *unit*—i.e., the primary plant— must qualify as a pool distributing plant on its own standing and the other plants in

the unit must process only Class I or Class II milk products.

Unit pooling serves to accommodate and provide a flexible regulatory approach in addressing the specialization of plant operations. It also minimizes unintended regulatory effects that may cause the uneconomical and inefficient movement of milk for the sole purpose of retaining pool status. However, some conditions need to be satisfied for unit pooling. The ''other'' plant(s) of the pool unit—i.e., the plants that would not qualify for pool status as a single plant—must be located in an equivalent or a lower price zone than the primary pool distributing plant. This condition is required to assure that the transportation of milk for Class II uses will not be subsidized through the marketwide pool and to assure pricing equity to all handlers processing Class II products that do not use unit pooling. Unit pooling arrangements status must be requested in writing and approved by the market administrator for its proper implementation and administration.

System pooling. As previously discussed, supply plants and reserve supply plants provide a benefit to the market because they are required to meet certain performance standards in supplying the needs of the fluid market. They also serve to balance the market. Because handlers often operate more than one supply plant within the market, they should be afforded flexibility in meeting the performance standards for pooling. *System pooling* can provide this flexibility. A system of plants can be established if the plants meet applicable performance standards in the same manner as any single plant. A system may consist of two or more supply plants, or two or more reserve supply plants, operated by the same handler or by one or more cooperative associations.

System pooling should be declared by a handler in writing to the market administrator so that pooling of the system can be properly administered. If a handler causes one of the plants to become ineligible for system pooling, that plant will not be part of the system for the duration of the calendar year. Likewise, plants, except for the proposed Upper Midwest consolidated marketing area, cannot be added to the system after the written request for system pooling is acknowledged by the market administrator.

Adjustment of Pooling Standards

The consolidated orders should provide the market administrator with authority to adjust various pooling standards, including pool plant shipping standards in most consolidated orders. Such a provision would replace the ''call'' provision that is now included in some orders. This change allows all market administrators to adjust the shipping standards for pool supply and pool reserve supply plants if they find that such revision is necessary to encourage needed shipments or to prevent uneconomic shipments of milk. For most consolidated orders, it is also recommended that the market administrator be authorized to adjust the total and in-area route disposition requirements for pool distributing plants. This flexibility could be particularly beneficial during a plant breakdown, a labor strike, the sudden loss or change in accounts, or some other conditions that would otherwise result in regulatory instability or market disruption.

A finding by the market administrator that adjustments are warranted would follow an investigation conducted on the market administrator's own initiative or at the request of interested parties. This provision allows the market administrator to respond promptly to changes in local marketing conditions. Granting the authority for the market administrator to make needed adjustments in the manner specified currently exists in some Federal orders and has proven to be responsive, efficient, effective, and commensurate with the authorities already delegated by the Secretary to the market administrator.

Nonpool Plant

A definition is provided in all orders describing plants which receive, process or package milk, but which do not satisfy the standards for being a pool plant. While providing for such a definition may appear redundant, this provision is useful to more clearly define the extent of regulation applicable to plants. *Nonpool plants* should include a plant that is fully regulated under another Federal order, a producer-handler plant, a partially regulated distributing plant, an unregulated supply plant and an exempt plant. The definitions for these nonpool plants are not materially different than those provided in the current orders with the possible exception of an ''exempt plant.''

A number of Federal orders exempt from regulation small distributing plants which, because of their size, do not significantly impact competitive relationships among handlers in the market. The level of route disposition required before an exempt plant becomes regulated varies in the current orders. As recommended, any plant with route disposition during the month of 150,000 pounds or less would be exempt in the consolidated orders. This limit reflects the maximum amount of fluid milk products allowed by an exempt plant in any current Federal milk order and ensures plants that are currently exempt from regulation will remain so.

Many current Federal orders also provide regulatory exemption for a plant operated by a state or Federal governmental agency. For example, some states have dairy farm and plant operations that provide milk for their prison populations. As recommended, regulatory exemption would be continued under the consolidated orders unless pool plant status is desired. Additionally, regulatory exemption is intended to include colleges, universities and charitable institutions because these institutions generally handle fluid milk products internally and have no impact in the mainstream commercial market. However, in the event that these entities do distribute fluid milk through commercial channels, route sales by such entities, including government agencies, will be monitored for determining if Federal regulation should apply.

The determination and verification of exempt plant status will, from time to time, necessitate the need for the market administrator to require reports and information deemed appropriate for the sole purpose of making this determination. Such authority is currently provided in orders and should continue.

Handler

Federal milk orders regulate those persons who buy milk from dairy farmers. Such persons are called *handlers* under the order. These persons have a financial responsibility for payments to dairy farmers for milk in accordance with its classified use. They must file reports with the market administrator detailing their receipts and utilization of milk. As recommended, the handler definition includes the operator of a pool plant, a cooperative association that diverts milk to nonpool plants or delivers milk to pool plants for its account, and the operator of a ''nonpool plant,'' which would encompass a producer-handler, a partially regulated distributing plant, a plant fully regulated under another Federal order, an unregulated supply plant, and an exempt plant.

In addition, ''third party'' organizations that are not otherwise regulated under provisions of an order are included in the handler definition.

This category includes any person who engages in the business of receiving milk from any plant for resale and distribution to wholesale and retail outlets, brokers or others who negotiate the purchase or sale of fluid milk products or fluid cream products from or to any plant, and persons who, by purchase or direction, cause the milk of producers to be picked up at the farm and/or moved to a plant. Such intermediaries provide a service to the dairy industry. These persons are not, however, recognized or regulated as entities required to make minimum payments to producers. The expanded marketing chain brought about by such intermediaries has made it increasingly difficult for the market administrator to track the movement of milk from farms to consumers. The recommended handler definition enables the market administrator to more readily identify those entities for the information needed to properly administer an order.

Producer-Handler

It has been a long-standing policy to exempt from full regulation many of those entities that operate as both a producer and a handler. Generally, a *producer-handler* is any person who provides satisfactory proof to the market administrator that the care and management of the dairy farm and other resources necessary for own-farm production and the management and operation of the processing plant are the personal enterprise and risk of such person. A primary basis for exempting producer-handlers from the pricing and pooling provisions of a milk order is that these entities are customarily small businesses that operate essentially in a self-sufficient manner. Also, during the history of producer-handler exemption from full regulation there has been no demonstration that such entities have an advantage as either producers or handlers so long as they are responsible for balancing their fluid milk needs and cannot transfer balancing costs, including the cost of disposing of reserve milk supplies, to other market participants.

The current orders have varying producer-handler definitions that address specific marketing conditions and circumstances. For example, they specify different limits on the amount of milk that producer-handlers may purchase and retain their exempt status. Some modifications are being made to the producer-handler provisions in the consolidated orders for standardization. However, these changes are not intended to fully regulate any producer-handler that is currently exempt from regulation.

As proposed, any handler, including a producer-handler, is exempt from the pooling and pricing provisions of an order during any month in which route disposition is less than 150,000 pounds. Thus, the producer-handler exemption only applies to producer-handlers with route disposition of 150,000 pounds or more. Since such producer-handlers are not subject to the pricing and pooling provisions of an order as are fully regulated handlers, it is appropriate to continue to require producer-handlers to rely on their own-farm production in meeting their fluid sales and to independently market their surplus milk production without participation in the marketwide pool. However, a producer-handler should be allowed some marginal flexibility on supplemental milk purchases provided they are from regulated sources. Relatively small supplemental purchases do not undermine the concepts of classified pricing and marketwide pooling. As proposed, producer-handlers are allowed to purchase some specified amount of supplemental fluid milk products each month from pool sources. As is currently the case, any supplemental requirements of fluid milk products by a producer-handler will continue to be limited to receipts from regulated sources, thus insuring that producers associated with the marketwide pool share in the economic benefit of all Class I sales over and above what a producer-handler's own production may not have satisfied.

It is appropriate to continue requiring producer-handlers to rely primarily on their own-farm production to balance their fluid sales and to find outlets for their surplus production. Producer-handlers must also rely upon their own distribution system to find outlets for their milk. A producer-handler will be allowed to distribute milk to the plant of a fully regulated handler. However, disposal of surplus milk production by a producer-handler to the plant of a fully regulated handler, whether in bulk or packaged form, will be allocated at the pool plant to the lowest class-use of the receiving plant, thereby preserving the Class I share of the market for producers who bear the burden of balancing a market's surplus disposal. Disposal of packaged fluid milk products by a producer-handler to a distribution facility operated by a fully regulated handler should not be permitted. It would allow a producer-handler to dispose of its surplus production by capturing a greater share of the Class I market thereby receiving an unearned economic benefit not accorded to producers pooled on the market. This restriction also prevents a fully regulated handler from purchasing Class I milk at less than the minimum order price that other fully regulated handlers must pay. Accordingly, a producer-handler will not be allowed to dispose of fluid milk products using the distribution system of another handler, nor through any other channel, division, or department of a pool handler and retain exemption from full regulation under an order. Since a producer-handler must control its own distribution, it will not be allowed to have disposed of milk to any independent distributor. Route disposition to retail stores (owned by any entity and not located in a regulated plant) or to a distribution facility owned by retail stores (and not by a regulated plant or independent entity) would be allowed.

Notwithstanding the exemption of producer-handlers from regulation, there may be instances where it is to the advantage of the person who is both a producer and a handler to operate such businesses as two distinct entities. The proposed new orders provide the producer-handler with the flexibility to realize this advantage. Upon request by a producer-handler to the market administrator, the plant portion of the operation would be a fully regulated distributing plant while the farm portion of the operation would be accorded producer status.

Public comments were received regarding the extent of regulation that should apply to producer-handlers. The majority of public comments supported the status-quo regarding the regulatory treatment of producer handlers, emphasizing that they should remain exempt from regulation in accordance with current order provisions and that the provisions should be regional in nature so as not to affect or change the current regulatory status of producer-handlers. One of the public comments received proposed that the exemption of producer-handlers from the regulatory plan of milk orders be eliminated. This proposal is denied. In the legislative actions taken by the Congress to amend the AMAA since 1965, the legislation has consistently and specifically exempted producer-handlers from regulation. The 1996 Farm Bill, unlike previous legislation, did not amend the AMAA and was silent on continuing to preserve the exemption of producer-handlers from regulation. However, past legislative history is replete with the specific intent of Congress to exempt producer-handlers from regulation. If it had been the intent of Congress to remove the exemption, Congress would

likely have spoken directly to the issue rather than through omission of language that had, for over 30 years, specifically addressed the regulatory treatment of producer-handlers.

Since producer-handlers are intended to be exempt from most regulation, some means must be provided to determine and to verify producer-handler status. Accordingly, the market administrator is provided with the authority to require reports and other information deemed appropriate to determine that an entity satisfies the requirements of producer-handler status. Such authority is currently provided in the orders and should continue.

Producer

Under all orders, *producers* are dairy farmers that supply the market with milk for fluid use or who are at least capable of doing so if necessary. Producers are eligible to share in the revenue that accrues from marketwide pooling of milk. The producer definitions of the individual orders are described under the regional discussions later in this document. Responding to regional needs, producer definitions will differ by order with respect to the degree of association that a dairy farmer must demonstrate with a market.

A dairy farmer may not be considered a producer under two Federal milk orders with respect to the same milk. If a dairy farmer's milk is diverted by a handler regulated under one Federal order to a plant regulated under another Federal order, and the milk is allocated at the receiving plant (by request of the diverting handler) to Class II, III or IV, the dairy farmer will maintain producer status in the original order from which milk was diverted.

Since producer-handlers and exempt plants are specifically exempt from Federal order pricing provisions, the term producer should not include a producer-handler as defined in any Federal order. Likewise, the term producer should not apply to any person whose milk is delivered to an exempt plant, excluding producer milk diverted to such exempt plant.

It would not be appropriate to share the economic benefits that arise from classified pricing through marketwide pooling with dairy farmers whose milk is not regularly associated with the market. For example, a dairy farmer may decide to deliver milk to a market's pool plants only when a more favorable unregulated market is not available, or an unregulated plant may attempt to move its surplus milk to a market's pool plant only to derive an economic benefit from the marketwide pool.

An unregulated plant operator, often a cooperative association, may receive all of a dairy farmer's milk at its plant when milk supplies are tight and, during such times, not share the higher-use value of such milk with other dairy farmers through the marketwide pool. On the other hand, during a period of flush production, the same plant may seek to dispose of surplus milk through a market's pool plants to pass the cost of balancing milk supplies to dairy farmers that regularly supply the fluid market through the mechanism of the marketwide pool. Under such circumstances, producer status should not be accorded to those dairy farmers under an order. Doing so would place producers who regularly fulfill a market's fluid milk needs with the burden of carrying the surplus costs of balancing unregulated fluid markets without the benefit of sharing in the additional revenue that is derived from those markets when circumstances are more favorable.

Another circumstance can also arise when it may be advantageous not to pool milk, a practice commonly referred to as ''depooling.'' When manufacturing class prices for a month are higher than an order's uniform, or blend price, milk at manufacturing plants is often depooled because the operators of such plants otherwise would be required to pay into the marketwide producer-settlement fund. Such payments would benefit the marketwide pool but would be disadvantageous to those having to make them. This practice is generally disruptive to the marketwide pool and is not conducive to maintaining orderly market conditions. In instances involving depooled milk, it is a handler's decision in moving milk that impacts producers and pool milk value. It is also a handler's action that determines whether a farmer retains producer status or becomes associated with another marketing area.

The proposed orders that are vulnerable to this type of abuse contain a provision to deter handlers from moving milk in a manner that is disadvantageous to the market's regular producers. Handlers who choose to regularly supply nonpool plants as their primary market, and handlers who move milk in and out of the regulated market, should not consistently enjoy the benefits of equalization payments from the marketwide pool. However, this should not apply in the event that a handler moves milk supplied by a producer under one Federal order to another Federal order, nor are these provisions intended to overlap with order provisions for the diversion of milk. Should a handler exceed specified diversion limits, only the over-diverted milk is removed from the pool; the producer should maintain ''producer'' status for other milk delivered that month.

The recommended method for determining when a dairy farmer is not properly associated with a market is commonly referred to as a ''dairy farmer for other markets'' provision, which is a component of the producer definition in some of the consolidated orders. Under this type of provision, milk deliveries to nonpool plants that are not reported by handlers as diversions from pool plants would result in the loss of producer status for a dairy farmer's milk for some fixed time period. While the receipt of, or diversion by, a pool handler of other milk from the same producer during that fixed time period is not restricted, the minimum payment obligation of the handler for that milk would not be regulated under the Federal milk marketing orders. Such milk would be treated as ''other source milk,'' and the dairy farmer's milk would not be included in the pool.

Where this provision is provided, the loss of producer status would remain in effect for the current month and for the following two months. Exception is made to accommodate the market demands for milk during the ''short'' season. If milk is depooled during the ''short'' season, the loss of producer status should remain in effect for the current month only; otherwise, it would discourage the pooling of milk during the remainder of the ''short'' season. Once the short season ends, however, the dairy farmer should not be eligible for producer status during the subsequent flush production season. Producer status will be lost until the beginning of the following ''short'' season. The relevant time periods that describe which months are applicable in defining the ''short'' season are described in each of the consolidated orders.

Producer Milk

All orders currently provide for defining and identifying the milk of producers which is eligible for inclusion in a particular marketwide pool and should continue to do so. However, this definition is specific to each consolidated order and is therefore not uniform across all orders.

In general, the definition of *producer milk* for all consolidated orders continues to include the milk of a producer which is received at a pool plant or which is received by a cooperative association in its capacity as

a handler. Most current orders consider milk to be ''received'' when it is physically unloaded at the plant and the proposed orders would continue that treatment. However, to ensure that producers are promptly paid for their milk, milk picked up from the producer's farm, but not received at a plant until the following month, will be considered as having been received by the handler during the month in which it is picked up at the producer's farm. In this situation, milk will be priced under an order at the location of the plant where it is physically received in the following month.

In order to promote the efficient movement of milk, all orders currently allow a handler to move producer milk, within certain specified limits, from a producer's farm to a plant other than the handler's own plant. This is referred to as a ''diversion'' of milk. As proposed for the consolidated orders, the definition of producer milk allows unlimited diversions to other pool plants, thereby providing maximum flexibility in efficiently supplying the fluid market.

Under some orders, unlimited diversions to nonpool plants would also be allowed once a dairy farmer has become associated with a particular order. Under other orders, however, a producer would be required to ''touch base'' at a pool plant one or more times each month and, in addition, aggregate diversion limits may be applied to a handlers' total diversions.

For pool distributing plants, route disposition as a percent of total receipts of bulk milk automatically limits diversions by those plants. With respect to pool supply plants and pool reserve supply plants, the specific shipping standards will ensure that a sufficient quantity of milk is available for the fluid market. Since some orders may allow for unlimited diversions, the maximum quantity of milk that a pool plant would be able to divert and still maintain its pool plant status would be 100% less the pool plant shipping standards for the month. This will mitigate the need for suspending order diversion limitations, an action that is quite common in some of the current orders. Unlimited diversions would also allow for maximum efficiency in balancing the market's milk supply. The market administrator's ability to adjust shipping percentages for pool supply plants and pool reserve supply plants will further ensure that an adequate supply of milk is available for the fluid market without the imposition of diversion limits.

While it is expected that a one time producer ''touch base'' standard and virtually unlimited diversions would be appropriate for most of the consolidated Federal orders, it is recognized that it may not be appropriate for certain ''deficit'' markets. In these cases, the order may provide for diversion limits to ensure an adequate supply of fluid milk for that particular market. In these cases, the alternate standards for diversion privileges specify the minimum number of days that milk of a producer must be physically received at a pool plant and the percent of total producer receipts that may be diverted by the handler. The months during which such minimums must be met are also identified in both cases.

In order to provide regulatory flexibility and marketing efficiencies, all of the proposed orders having diversion limits allow the market administrator to increase or decrease the delivery requirements for producers and the aggregate diversion limits applicable to handlers. Granting the authority for the market administrator to make needed adjustments in the manner specified currently exists in some Federal orders and has proven to be a responsive, efficient, and effective way to deal with rapidly changing marketing conditions.

Cooperative Association

All current orders provide a definition for dairy farmer cooperative associations that market milk on behalf of their dairy farmer members and should continue to do so in the consolidated orders. Providing for a uniform definition of a cooperative association facilitates the administration of the various order provisions as they apply to such producer organizations and recognizes the unique standing granted to dairy farmer cooperatives under the Capper-Volstead Act. Moreover, dairy farmer cooperatives are responsible for marketing the majority of the milk supplied to regulated handlers under the Federal order system.

As provided herein, a cooperative association means any cooperative marketing association of producers which the Secretary determines, after application for such recognition by the cooperative, is qualified as such under the provisions of the Act of Congress of February 18, 1922, as amended, known as the ''Capper-Volstead Act''. Additionally, most orders currently require that a cooperative association have full authority in the sale of the milk of its members and that it be engaged in making collective sales or marketings of milk or milk products for its dairy farmer members. This should continue. The cooperative association definition provides for universal applicability in all consolidated orders.

Several current orders also provide a definition for a federation of two or more cooperative associations. As recommended herein, all consolidated orders would recognize a federation of cooperatives as satisfying the cooperative definition for the purposes of determining milk payments and pooling. Individual cooperatives of a federation of cooperatives must also meets the criteria as set forth for individual cooperative associations and their federations as incorporated under state laws.

Handler Reports

Reports of receipts and utilization, payroll and other reports. All current orders require handlers to submit monthly reports detailing the sources and uses of milk and milk products so that market average use values, or blend prices, can be determined and administered. Payroll reports and other reports required by the market administrator are also provided for in the orders. The proposed language for the consolidated orders for handler reports is similar to that contained in current orders. The dates when reports are due in the market administrator's office differ slightly by order according to custom and industry practice.

Announcements by the Market Administrator

Public announcements by market administrators. Four sections of each consolidated order provide for requiring the market administrator to make certain announcements in the course of order administration. These include: § 100__.45, Market administrator's reports and announcements concerning classification; § 100__.53, Announcement of class prices and component prices; § 100__.54, Equivalent price; and § 100____.62, Announcement of producer prices, or in orders without component pricing, Announcement of uniform price, uniform butterfat price, and uniform skim milk price. These announcements are currently required by market administrators in all orders and should continue. As proposed, these provisions are uniform to all consolidated orders and are nearly identical to current order provisions. However, § 100____.62, is unique to each order and is described in each of the consolidated orders.

Payments for Milk

Producer-settlement fund. All of the current orders provide for minimum payment terms and obligations by regulated handlers and such provisions should continue to be part of the consolidated orders. Handlers are

charged with minimum class prices. However, producers are returned a uniform, or blend, price through the marketwide pooling of milk. The mechanism for the equalization of a handler's use value of milk is the producer-settlement fund. It is established and administered by the market administrator for each order.

The producer-settlement fund ensures that all handlers are able to return the market blend price to producers whose milk was pooled under the order. Payments into the producer-settlement fund are made each month by handlers whose total classified use-value of milk exceeds the value of such milk calculated at the uniform price or at component prices for those orders with component pricing. Similarly, payments out of the producer-settlement fund are made each month to any handler whose use-value is below the value of milk at the uniform price or component prices, as the case may be. The transfer of funds enables handlers with a use-value below the average for the market to pay their producers the same uniform price as handlers whose Class I utilization exceeds the market average. This provision is uniform for all consolidated orders.

Payments to and from the producer-settlement fund. The current orders vary with respect to dates for payments to the producer-settlement fund, due largely to industry practices and how certain orders evolved over time to reflect those practices. Each consolidated order provides for payment dates, and they are specific for each consolidated order. Also, as proposed, payment to the producer-settlement fund would be considered made upon receipt by the market administrator. In view of the need to make timely payment to handlers from the producer-settlement fund, it is essential that money due the fund be received by the due date. Additionally, payment cannot be received on a nonbusiness day. Therefore, if the due date is a Saturday, Sunday, or national holiday, payment would not be due until the next business day. This is specified in § 1000.90 of the General Provisions.

Payments from the producer-settlement fund provide for payments to those handlers whose milk use-value is below the value of milk at the uniform price. As proposed, this section is similar to those contained in current orders. As with payments to the producer-settlement fund, the payments from the fund are specific to each consolidated order. Generally, payments from the producer-settlement fund would be required one day after the required date for payments into the fund. This goal is consistent with the average time lapse between payment into the producer-settlement fund and payments from the fund in existing orders. As in the prior section, payments would be made on the next business day when the required payment date falls on a Saturday, Sunday, or national holiday.

Payments to producers and to cooperative associations. The AMAA provides that handlers must pay to all producers and producer associations the uniform price. The existing orders generally allow proper deductions authorized by the producer in writing. Proper deductions are those that are unrelated to the minimum value of milk in the transaction between the producer and handler. Producer associations are allowed by the statue to ''reblend'' their payments to their producer members. The Capper Volstead Act and the AMAA make it clear that cooperative associations have a unique role in this regard.

The payment provisions to producers and cooperatives vary greatly among the current Federal orders, particularly in regard to partial payment frequency, timing, and amount. The proposed provisions are consistent with the needs of the consolidated orders. Each order currently requires handlers to make at least one partial payment to producers in advance of the announcement of the applicable uniform prices. The partial payment varies across orders by the required payment date, rate of payment, and volume of milk for which payment is made. This provision continues to require partial payments, although they will vary by consolidated order. Full payment is required to be made so that it is received by producers no later than two days after the required pay-out date of monies from the producer-settlement fund.

Cooperatives will be paid by handlers for bulk milk and skim milk on the terms described for individual producers except that required receipt of payment will be one day earlier. Providing for an earlier payment date for cooperative associations is warranted because it will permit the cooperative association the time needed to distribute payments to individual producer-members. The cooperative payment language in each of the consolidated orders has been expanded to include bulk milk and skim sold by cooperative pool plants as well as by cooperatives acting as a handler.

All of the payment dates are receipt dates. Since payment cannot be received on a non-business day, payment dates that fall on a Saturday, Sunday, or national holiday will be delayed until the next business day. While this has the effect of delaying payment to cooperatives and producers, the delay is offset by the shift from ''date of payment'' to ''date of payment receipt.''

Minimum payments to producers. In a proceeding involving the current Carolina, Southeast, Louisville-Lexington-Evansville, and the former Tennessee Valley Federal milk orders (Orders 5, 7, 46, and 11), a proposal was made to clarify what constitutes a minimum payment to producers. The proposal was recommended by Hunter Farms (Hunter) and Milkco Inc. (Milkco), two handlers regulated under the current Carolina order. Under the proposal, a handler (except a cooperative acting in its capacity as a handler pursuant to paragraph 9(b) or 9(c)) may not reduce its obligations to producers or cooperatives by permitting producers or cooperatives to provide services which are the responsibility of the handler. According to the Hunter/Milkco proposal, such services include: (1) Preparation of producer payroll; (2) conduct of screening tests of tanker loads of milk; and (3) any services for processing or marketing of raw milk or marketing of packaged milk by the handler.

At the May 1996 hearing, representatives of Hunter and Milkco testified that both handlers receive milk from cooperative associations and Piedmont Milk Sales, a marketing agent handling the milk of non-member producers. The Hunter representative explained, due to competitive marketing conditions in the Southeast in late 1994 and early 1995, handlers were able to purchase milk supplies at Federal order minimum prices without any over-order premiums being charged. As a result of the absence of over-order premiums, the representative stated, Hunter received underpayment notices from the market administrator on milk that it had received from Piedmont Milk Sales.

Hunter contends the problem of what constitutes a minimum payment to producers should be clarified in the event that premiums again disappear in the future. If this issue is not resolved, according to Hunter, it will suffer a loss of milk sales and its producers will receive lower prices. Hunter argues that the current policy is discriminatory and unfair and that everyone would benefit from a clarification of the rules defining Federal order minimum prices.

Milkco supported Hunter's position and stated that it also received underpayment notices from the market administrator for the December 1994 through October 1995 period on milk received from independent dairy farmers, but did not receive

underpayment notices on milk received under the same or similar conditions from cooperative associations.

Carolina-Virginia Milk Producers Association offered qualified support for the Hunter/Milkco proposal. The cooperative suggested expanding handlers' responsibilities to cover tanker washing and tagging, supplying milk to handlers on an irregular delivery schedule, field work, disposing of surplus milk during months when the supply is above local needs, and importing supplemental milk for Class I use during periods of short production.

Mid-America Dairymen, Inc. (Mid-Am) testified and filed a post-hearing brief strongly objecting to the Hunter/Milkco proposal. Mid-Am argued that the issue of minimum payments to producers is national in scope and suggested that the issue be addressed on a national basis within the context of the Federal order reform as required by the 1996 Farm Bill. Furthermore, Mid-Am stated that clearly the costs for butterfat testing are borne by all producers, and the costs of testing milk in tankers for antibiotics are borne by all handlers, regardless of their source of supply. According to Mid-Am, no confusion exists as to who is responsible for these tests and, therefore, they should not be included in the proposed amendments.

Several handlers either supported the Milkco/Hunter proposal or stated the proposal should be considered by the Secretary for all Federal milk marketing orders within the context of Federal milk order reform.

Based on the testimony presented at the public hearing and comments received, the Department's recommendation issued on July 17, 1997 (62 FR 39470), was to consider this issue as part of Federal order reform. The decision stated that no changes were being recommended for the 4 southeastern orders involved in the proceeding because this issue is central to all Federal milk orders and should not be interpreted differently from one order to another. The decision also noted the conceptual differences among market participants concerning what constitutes minimum prices to producers. The record was not extensive in detailing the particular services to be assigned to each party, nor in providing guidance concerning the cost of these services which appeared to vary considerably from organization to organization.

Hunter and Milkco, Inc., filed an exception to the Department's partial recommended decision and urged adoption of their proposal. These handlers stated that their proposal would specify the responsibility of all handlers with respect to producer milk and thereby rectify any inconsistency that may currently exist in order language concerning this issue.

Hunter and Milkco also stated that any disagreement within the industry concerning which services are the responsibility of the handler is secondary to the issue under review and does not warrant the denial of their proposal. The commenters contend that the central principle surrounding this issue is uniformity in the treatment of handlers purchasing milk supplies from cooperatives or independent producers. The precise list of services is of secondary importance, they state, and industry disagreement concerning these services should not prevent the Department from embracing the central thrust of their proposal.

Regardless of the short-term outcome in the pending rulemaking, there is a long-term issue that transcends individual orders and should be uniformly applied in the interpretation and administration of all Federal milk orders if possible. Accordingly, interested parties are invited to submit comments concerning this issue.

Payments by a handler operating a partially regulated distributing plant. All current and consolidated orders provide a method for determining the payment obligations due to producers by handlers that operate plants which are not fully regulated under any Federal order. These unregulated handlers are not required under the scope of Federal milk order regulation to account to dairy farmers for their milk at classified prices or in returning a minimum uniform price to producers who have supplied the handler with milk. However, such handlers may sell fluid milk on routes in a regulated area in competition with handlers who are fully regulated.

Therefore, the regulatory plan of Federal milk orders needs to provide a minimum degree of regulation to all handlers who enjoy routes sales of fluid milk in a regulated marketing area. This is necessary so that classified pricing and pooling provisions of an order can be maintained. It is also necessary so that orderly marketing conditions can be assured with respect to handlers being charged the classified value under an order for the milk they purchase from dairy farmers. Without this provision, milk prices in an order would not be uniform among handlers competing for sales in the marketing area, a milk pricing requirement of the AMAA. There are 3 regulatory options that are available at the option of the partially regulated handler.

It is recognized under current orders that the purchase of Class I milk by a partially regulated handler of milk that is priced under a Federal order in an amount equal to, or in excess of, quantities sold by partially regulated handlers in the marketing area ensures that price equality is maintained between these entities. In these circumstances, a partially regulated handler will not be required to make payments to the producer-settlement fund so that the use-value of milk has been equalized between fully regulated and partially regulated handlers.

For those instances in which a partially regulated handler purchases no milk from fully regulated handlers, or where purchases are less than the quantity of route disposition in the marketing area by the partially regulated handler, a payment may be made by the partially regulated handler into the producer-settlement fund of the regulated market at a rate equal to the difference between the Class I price and the uniform price of the regulated market.

Many current orders also allow the operator of a partially regulated plant to demonstrate that the payment for its total supply of milk received from dairy farmers was in an amount equal to the amount which the partially regulated plant would have been required to pay if the plant were fully regulated. This amount may be paid entirely to the dairy farmers that supplied the handlers, or in part to those dairy farmers with the balance paid into the producer-settlement fund of the regulated market. This should be adopted in all orders.

All of the current orders also provide, under certain circumstances, for payment options by partially regulated handlers relating to reconstituted milk. All of the payment options available to a partially regulated handler are retained under the consolidated orders. This provision is now found in § 1000.76 of the General Provisions.

Adjustment of accounts. All current orders provide for the market administrator to adjust, based on verification of a handler's reports, books, records, or accounts, any amount due to or from the market administrator, or to a producer or a cooperative association. This provision continues to be included in the consolidated orders. The provision requires the market administrator to provide prompt notification to a handler of any amount so due and requires payment adjustment to be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

Charges on overdue accounts. All current orders provide for an additional charge to handlers who fail to make required payments to the producer-settlement fund when due. Such payments include payments to the producer-settlement fund, payments to producers and cooperative associations, payments by a partially regulated distributing plant, assessments for order administration, and marketing service and certain other payment obligations in orders with specialized provisions such as transportation credits. This should continue to be provided for in the consolidated orders.

In order to discourage late payments, it is proposed that a 1.0 percent charge per month be incorporated in the consolidated orders. This rate represents the mid-point in the range of charges by all orders presently. Overdue charges shall begin the day following the date an obligation was due. Any remaining amount due will be increased at the rate of 1.0 percent on the corresponding day of each month until the obligation is paid in full.

As proposed, all overdue charges would accrue to the administrative assessment fund. The late-payment charge is to be a penalty that is meant to induce compliance with the payment terms of the order. If late-payment charges for monies due on producer milk were to accrue to the balance owed to either producers, cooperatives or producers/cooperatives via the producer-settlement fund, it could result in such producers and cooperatives being less concerned whether they are paid on time, thus being counterproductive to the purpose of late payment provisions. Under the provision recommended, cooperatives and producers would not be placed in a position where they would prefer to be paid several days late so that they would receive the late-payment charges or increase the level of producer prices due to late payment fee accrual to the producer-settlement fund. This is of particular concern in markets with a single dominant cooperative. Additionally, by having late-payment fees accrue to the administrative fund, monies are made available to enforce late-payment provisions that would otherwise have to be generated through handlers' administrative assessments.

Assessment for Order Administration

The AMAA provides that the cost of order administration shall be financed by an assessment on handlers. All current orders provide for proportionate per hundredweight assessments of varying rates. As proposed, a maximum rate of 5 cents per hundredweight is provided. The assessment would apply to all of a handler's receipts pooled under the order.

Deduction for Marketing Services

As in most current orders, the consolidated orders should provide for the furnishing of marketing services to producers for whom cooperative associations do not perform services. Such services should include providing market information and establishing or verifying weights, samples and tests of milk received from such producers. In accordance with the Act, a marketing services provision must benefit all nonmember producers under the order. They are not uniform in the consolidated orders.

The market administrator may contract with a qualified agent including a cooperative association to provide such services. The cost of such services should be borne by the producers for whom the services are provided. Accordingly, it is proposed that each handler be required to deduct a maximum of 7 cents per hundredweight from amounts due each producer for whom a cooperative association is not providing such services. All amounts deducted should be paid to the market administrator not later than the due date for payments to the producer-settlement fund.

6a. Northeast Region

The Northeast Marketing Area

The recommended consolidated Northeast order differs significantly from other consolidated orders. In addition to merging three existing Federal milk orders, the proposed Northeast order also recommends expansion in the western and northern regions of New York state, and all currently unregulated areas of the New England states (except Maine).

While the current New England (Order 1) and Middle Atlantic (Order 4) order have similar pricing provisions for adjusting producer blend prices in a manner identical to how plant prices are charged, the current New York-New Jersey (Order 2) order employs a ''farm-point'' pricing method. This decision recommends that the pricing of milk should employ a plant-point pricing methodology in the consolidated Northeast order. This method is used in every other current marketing area and in every recommended consolidated marketing area. This represents a considerable change in how milk will be priced for those handlers and producers who currently are priced under the provisions of the New York-New Jersey order.

In addition to the different pricing provisions of the three existing orders, other important differences and related provisions need to be addressed in recommending a complete Northeast regional order that will accomplish the goals of the AMAA. These include what is commonly referred to in the New-York-New Jersey order as the ''pass through'' provision, the need for providing marketwide service payments in the form of cooperative service payments and balancing payments that currently exist in the New York-New Jersey order and do not exist in either the current New England or Middle Atlantic orders. Additionally, the three current northeast orders also provide for seasonal adjustments to the Class III and IIIA price, which may no longer be necessary in light of the replacement being recommended for the BFP.

It is fair to observe that the current order most affected by the recommended consolidation is the New York-New Jersey order. In addition to the differences already described, certain terms and provisions of the recommended Northeast order are also different in how they are described and presented but are nevertheless consistent with existing provisions that accomplish the goals of the AMAA. This is less of an issue for those entities that are accustomed to the terminology of provisions used in the New England and Middle Atlantic orders. The following presents a discussion of the recommended order provisions and issues that are unique to the consolidated Northeast order.

Plant

The plant definition for the proposed consolidated Northeast order should differ from that of the other consolidated orders by allowing stationary storage tanks to be used as reload points. This exception to the plant definition is warranted for the consolidated Northeast order due to certain unique conditions that affect the ability of producers to assemble milk in an efficient manner and subsequently transport it to a plant that actually processes milk into finished dairy products, including fluid milk products. This exception would not consider the reload point or facility as a point from which to price producer milk. Rather, milk once assembled would be shipped to a processing plant where it would be priced.

A portion of the Northeast milk supply is derived from some 200 small dairy farms located in Maine. Because much of this state is serviced by secondary and rural winding roads, the current New England order has

provided for reload points as a workable solution to the inherent hauling difficulties in transporting relatively small loads of milk from the countryside to reload points and facilities with stationary storage tanks that do not serve as a pricing point. This should continue to be provided for in the consolidated Northeast order. Not to provide this accommodation would adversely affect a substantial number of small producers and the milk haulers that service them.

Pool Plant

The *pool distributing* and *pool supply plant* definitions of the proposed consolidated Northeast order should use the standard order language format used in other orders, combined with performance standards that are adapted to marketing conditions in the Northeast.

The proposed pool distributing plant definition specifies that a pool distributing plant must have 25 percent or more of its total physical receipts of bulk fluid milk distributed as route disposition and that route disposition within the marketing area be at least 25 percent. The 25 percent level of total receipts distributed on routes is a reasonably high enough level to establish a distributing plant's association with the marketing area. The in-area route distribution performance requirement of 25 percent is recommended for two reasons. First, as one of the intents of Federal milk order reform was to adopt liberal pooling standards, a 25 percent level provides a level of association with the market that is liberal yet sufficiently high enough to assure pooling standards that are performance oriented. Second, it tends to minimize changing the regulatory status of handlers from their current regulatory status by the Federal order program through the consolidation of existing orders. This also seems a reasonable standard in light of individual state regulatory plans currently in place in Maine, Pennsylvania, and Virginia are applicable.

As already discussed, the recommended consolidated Northeast order and other nearby consolidated marketing orders do not recommend expansion to include currently unregulated areas. This includes areas in the states of Pennsylvania, Virginia, and the entire state of Maine. Some distributing plants in these areas are not currently regulated, or are only partially regulated to the extent they enjoy Class I sales in regulated areas. A 25 percent in-area route distribution level will serve to ensure or minimize any change in their current regulatory status under the Federal program that result from consolidation of the three northeast marketing areas into a single new order.

Unit pooling, wherein two or more plants operated by the same handler located in the marketing area can qualify for pooling as a unit by meeting the total and in-area route distribution requirements of a pool distributing plant, is recommended for inclusion in the consolidated Northeast order. Providing for unit pooling provides a degree of regulatory flexibility for handlers by recognizing specialization of plant operations.

Due primarily to positions offered by many of the major Northeast dairy cooperatives and their recommendations on appropriate pool supply plant performance requirements, the consolidated Northeast order supply plant performance requirements initially should be set to require that in the months of August and December, at least 10 percent of the total quantity of bulk milk that is physically received at a supply plant be shipped to distributing plant. For the months of September through November, such shipments by pool supply plants should be at least 20 percent. To the extent that a supply plant has met these performance requirements, no performance requirement is recommended for the months of January through July. However, a supply plant that has not met these performance requirements will need to meet a 10 percent performance requirement in each of the months of January through July in order to qualify as a pool supply plant.

While this decision has recommended providing for pool reserve supply plants, it is not recommended for inclusion in the provisions for the consolidated Northeast order. However, providing for a system of supply plants is recommended for the consolidated Northeast order and this provision is sufficiently self-explanatory in the proposed order language.

Producer-Handler

The producer-handler definition for the consolidated Northeast order should conform to the limitations on receipts at its plant or acquiring for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This should cause no change in the regulatory status of any known producer-handler currently in operation in the proposed consolidated Northeast order region.

Producer

The producer definition of the proposed consolidated Northeast order should be defined as described in the proposed order language for the order. This definition describes those dairy farmers who are properly associated with the Northeast marketing area and who should share in the benefits that accrue from the marketwide pooling of milk in this area.

The months specified in the producer definition for defining when a dairy farmer would not be considered a producer under the order are so indicated because they tend to accurately reflect the seasonality of supply for meeting the market demands for milk during the ''short'' season in the proposed Northeast marketing area. Accordingly, the producer definition should not include dairy farmers who's milk during any month of December through June is received as producer milk at a pool plant or by a cooperative association handler if the operator of the pool plant or the cooperative association caused the milk from such producer's farm to be delivered to any plant as other than producer milk as defined in the producer milk provision of the proposed Northeast order, or any other Federal milk order during the same month, in either of the two preceding months, or during any of the months of July through November.

Similarly a dairy farmer would not be considered a producer under the order, for any month of July through November, any dairy farmer whose milk is received as producer milk at a pool plant or by a cooperative association handler if the pool plant operator or the cooperative association caused the dairy farmer's milk to be delivered to any plant as other than producer milk, as defined in this proposed order, or in any other Federal milk order during the same month.

Producer Milk

The producer milk definition of the consolidated Northeast order should follow the general structure and format of other consolidated orders. It differs from other consolidated orders in that it requires cooperative handlers to organize reports of producer receipts that are outside of the states included in the marketing area, or that are outside of the states of Maine or West Virginia, into state units with each unit separately reporting receipts.

As previously discussed, not all consolidated orders set diversion limits for producer milk. For the proposed Northeast order, no diversion limits are established as they are, for example in

the proposed Florida order. However, diversions are limited in functional terms. The maximum quantity of milk that a pool plant would be able to divert and still maintain pool plant status would be 100 percent minus the applicable shipping standard.

Component Pricing

The consolidated Northeast order should employ a component pricing plan in the classified pricing of milk under the order as previously discussed in the BFP section of this recommended decision. This recommendation is consistent with positions taken and proposals offered by major cooperative groups in the Northeast who supply a large percentage of the milk needs of the market. This also conforms with the recommendations discussed earlier in this decision on replacing the BFP.

Farm-Point vs. Plant Point Pricing

At issue in the suggested merging of the three northeast marketing areas is the use of two distinct pricing methods. The Middle Atlantic and New England marketing area employ a system of plant-point pricing. This pricing method is also employed in every other marketing area in the Federal order system. Only the New York-New Jersey marketing area uses what is called ''farm-point'' pricing. This decision recommends the adoption of plant point pricing as the pricing method for the consolidated Northeast order.

Plant-point pricing of milk that is pooled under an order prices milk f.o.b. the plant of first receipt. The cost of hauling from the farm to the plant is the responsibility of the producer. When the receiving handler is also the hauler, orders permit the handlers in making payments to each producer to deduct hauling costs up to the full amount authorized in writing by the producer.

As originally employed in the New York-New Jersey order (Order 2), farm-point pricing establishes the price for milk by the zone (distance from market computed the nearer of the basing points) of the township in which a producer's milkhouse is located. While termed ''farm-point'' farms are grouped by their township location. However, this is the nearest practicable proxy for farm location. In functional terms, when a handler picks up milk at a producer's farm, the handler takes title of the milk at the time and point of pickup. Accordingly, there are no adjustments in payments to producers to cover any part of the cost of pickup or hauling in moving milk to the handler's plant. Farm-point pricing fundamentally shifts the cost of transporting milk from the producer to the handler. Farm-point pricing has been in effect in Order 2 since 1961. While the fundamental concept of farm-point pricing has been retained with respect to its overall structure of mileage zones, other order provisions were adopted subsequent to its establishment and modified over time so that farm-point pricing could remain viable.

In the decision that established farm-point pricing (25 FR 8610, Sept. 7, 1960), prevailing marketing conditions served to warrant this type of pricing system. At that time, the emergence of bulk-tank milk began to take on a degree of prominence in the milk supply of Order 2. Prior to the adoption of farm-point pricing (1959), about 8 percent of the producers had bulk tanks, accounting for at least 14 percent of the volume of milk associated with the market. About 92 percent of producers delivered their milk at their own expense directly to plants in 40 quart cans. Most of the milk can-delivered was from farms within a radius of not more than 15 miles from the plant. The milk of producers who had converted to bulk tanks, in some instances, had been hauled more than 200 miles from farm to city plants, but the majority of bulk tank milk was moved much shorter distances to country receiving plants. The decision cited that in October, 1959, milk was received from 49,719 producers at 691 plants.

When milk was delivered in cans to a handler's plant, the plant was the location of where milk was weighed, sampled for butterfat and quality, and where cans were washed. It was at the plant that milk was accepted or rejected. It was the place where milk was cooled and co-mingled with other individual producer's milk. More importantly, it was the place where control of the milk passed from producer to the plant operator or moved by the plant to other plants for fluid or manufacturing uses. Minimum prices required by the order to be paid by handlers were adjusted for the location of the plant at which milk was received from dairy farmers.

Bulk tank milk brought a set of new factors. When milk is transferred from a producer's bulk tank to the hauler, the point of transfer is also the point where several functions are performed. Milk in a producer's bulk tank has already been cooled, and therefore not subject to the early delivery deadlines. The weight of milk is determined at the bulk tank and is also the place where samples are taken for butterfat and quality. It is also here that the individual producer's milk is accepted or rejected and loses its identity by being co-mingled with other milk.

Numerous problems arose in regulating the handling of bulk tank milk in an order where pooling depended upon direct delivery from the farm to a pool plant and under which minimum class prices and the uniform prices to be paid to producers was reflective of the location of the plant where delivery was made:

1. Administrative problems associated with bulk tank handling arose, particularly where and when milk was regarded to have been received. Bulk tank milk provided the opportunity to deliver milk to different plants, some pool and some nonpool. Where a given tank load of milk was unloaded if it went to two or more plants of the same or different handlers on the same day was difficult to determine.

2. The incentive arose (because of the administrative difficulty of determining when and where milk was received) for handlers to behave in a way that would result in the maximum exclusion of milk from the pool for fluid use outside the marketing area.

3. The incentive arose for the maximum inclusion in the pool of milk in fluid and manufacturing uses.

4. The incentive and opportunity arose for handlers to select one of several plants for receipt of bulk tank milk, with or without manipulation of hauling charges. This distorted and impinged upon the effectiveness of the minimum price provisions of the order, especially in the case of relatively long hauls of bulk tank milk.

The 1961 decision that established farm-point pricing provided 8 scenarios that demonstrated how handlers behaved so as to minimize their pricing obligations to producers. Most of the scenarios arose from the inability to determine when milk was received at a plant. In order to mitigate such circumstances, several things were done. Foremost, was the establishment of farm-point pricing on the basis of bulk tank units and the designation of each bulk tank unit as either a pool or nonpool unit and defining the circumstances under which designations could be changed.

The pricing of milk at the farm eliminated the incentive for handlers to attempt to make it appear that the plant of receipt was other than the plant where milk is actually received and handled. It was made crystal clear that delivery and receipt of bulk milk takes place at the farm. Once acquired by the handler, the plant or plants to which the milk may be delivered depended on the decision of the handler, not the producer. Under these circumstances, where the milk is actually used is not a factor to be reflected in the minimum

producer price. The operator of the bulk tank unit was defined as the handler and the point of receipt of milk. This entity was responsible for establishing the unit, and the entity held the responsibility for reporting, accounting, pooling and paying producers. Additionally, the decision concluded that the price at which the farm bulk tank is accounted for to the pool should be the minimum class price adjusted for location of the farm, that payments by handlers directly to producers be adjusted to reflect all location differentials based on where farms are located and where bulk tank milk is received.

A proposal that would have allowed a tank truck service charge authorized by the producer but not in excess of 20 cents per hundredweight (cwt.), and payments to cooperatives which serve as handlers operating a bulk tank unit should be at the price reflecting transportation and (the then existing) direct delivery differential applicable at the handler's plant where milk is delivered by the cooperative was not incorporated into the order. At that time, it was found that plant hauling charges averaged nearly 20 cents per cwt. This was offered as rationale for a negotiable 20 cent per cwt. charge by handlers for hauling. Arguments notwithstanding, the underlying concepts embodied in farm-point pricing caused the Department to not allow for any hauling deduction by handlers.

Shortly after the implementation of farm-point pricing, the need to amend the order to keep farm-point pricing viable arose. The first occurrence was in 1963. In the 1963 decision (28 FR 11956, Oct. 31, 1963), it was noted that there had been significant changes in marketing conditions that arose from establishing farm-point pricing in 1961. These included the reduction in premiums to bulk tank producers in general; the reluctance of proprietary handlers to receive bulk tank milk from individual producers in order to avoid the hauling costs; the differences in pricing can and bulk tank milk; and a slowdown in the trend of conversion from can milk to bulk tank milk. The 1963 decision, in acknowledging changing marketing conditions, incorporated into the Order, an authorized 10-cent per cwt. charge for hauling, provided that producers authorize this maximum level in writing.

In the 1963 decision the Secretary found that allowing for a limited authorized service charge for hauling bulk tank milk at a maximum rate of 10 cents per cwt. was sufficient. This was largely based on the fact that handlers were not then charging for bulk tank pickup and hauling, but rather were paying premiums for bulk tank milk. Additionally, can milk direct delivered by producers to plants was still very much the norm. While bulk tank milk was growing, it had not yet accounted for a majority of milk pooled on the order. The 10-cent negotiable hauling charge was found to provide the needed flexibility for handlers to receive bulk tank milk from individual producers.

This decision raised, for the first time with respect to farm-point pricing, the maintenance of orderly conditions and the uniform pricing to handlers on all milk priced and pooled under the order. Because bulk tank milk is priced by township zone (the best proxy for a farm's location) all farms in any particular township have the same value assigned to their milk. However, the decision found it necessary to reflect appropriate uniform pricing of bulk tank milk because it has differing value dependent on the accessibility and relative location of individual farms within the township. With this finding, it was determined that responsibility for hauling to the township pricing point should be borne by the producer with appropriate safeguards to protect the producer. Therefore, a maximum negotiable hauling charge from handlers of 10 cents per cwt. was brought under the order.

By 1970, marketing conditions in the New York-New Jersey market had changed to the point where handlers were authorized to receive a full 10-cent hauling credit for each cwt. of bulk tank milk which was disposed of for manufacturing uses. Additionally, the negotiable 10-cent hauling charge to producers for a handler's cost offset established by the 1963 decision was retained. However, the 10-cent negotiable limit was limited to manufacturing milk. Can milk at this time represented about 25 percent of the total amount of milk pooled in Order 2, with the balance being bulk tank milk.

Proponents supporting this change to the order claimed, and the decision affirmed, that the manufacturing price for milk in Order 2 was not properly aligned with manufacturing class prices in adjacent Federal orders. In this decision (35 FR 15927, Oct. 9, 1970) the Secretary found that to the extent that Order 2 handlers had borne the transportation costs associated with the pickup and movement of bulk tank milk used in manufacturing from the farm to the plant, Order 2 handler costs exceeded the price which handlers in adjacent order markets were required to pay for milk used in manufacturing. By adopting this transportation credit for handlers, there was no need to adopt other proposals that would have lowered the manufacturing price for milk under the other northeastern orders or lower the Class I price for milk in Order 2 as had been proposed and denied.

By 1977, some 16 years since the adoption of farm-point pricing, marketing conditions had changed again and the issue of providing for more equitable competition both within the Order 2 market and between other orders took on primary importance. By this point in time, can milk was about 3 percent of the market, with the balance represented by bulk tank milk, the near inverse of the marketing conditions prevailing in 1961. The transportation credit that had been established for handlers in the 1970 decision for manufacturing milk was now extended to *all milk* received by handlers. The transportation credit was increased to 15 cents per cwt., plus an additional 15-cent maximum negotiable credit above the ''automatic'' 15 cents because total average transportation costs was found to be about 30 cents per cwt. For reasons nearly identical to the 1963 and 1970 decisions, ''formalizing'' the negotiable hauling charge was not adopted because of the need of flexibility in accounting for milk movements from the farm to the township pricing point (42 FR 41582, Aug. 17, 1977). In that decision the Secretary also raised the direct delivery differential from 5 cents to 15 cents per cwt. in the 1–70 mile zone for can milk delivered by farmers to plants within this zone, changed the transportation adjustment rate from 1.2 cents per cwt. for each 10 miles to 1.5 cents per cwt. for each 10-mile zone beyond the 201–210 zone, and 1.8 cents per cwt. for each 10-mile zone within the 201–210 mile zone.

Cooperatives were of the strong opinion that the cost of milk assembly and transportation are the marketing costs of the handler and not by producers. However, they also indicated that changes are warranted in the order because of the failure of neighboring markets to adopt farm-point pricing.

Comparative examples of handler price inequities with respect to their cost of milk was amply demonstrated for both intra and inter market situations. With respect to inappropriate price alignment between orders, the competitive relationships between Order 2 and Order 4 (then known as the Delaware Valley Order) were closely examined. On intra-order movements of milk, it was shown that Class I handlers in New York City had a significantly

lower procurement cost for direct-ship over bulk tank milk because bulk tank milk from ''distant'' supply plants had higher transfer and over-the-road hauling costs. Supply plant milk at the city represented about 80 percent of milk receipts at city plants. The inter-market situation demonstrated that handlers in Philadelphia accounted for milk at prices lower than New York handlers. Order 4 handlers were in a position to establish lower resale prices for fluid milk than their competitors in the New York market because the burden of increased hauling costs fell largely on Order 2 handlers. As in 1970, other proposals were denied in light of adopting the 15-cent hauling credit for handlers. These other proposals included lowering Class I and the manufacturing price for milk in the order by 15 cents per cwt.

By 1981, bulk tank milk accounted for nearly the entire milk supply pooled on Order 2—about 99.6 percent. As the result of a hearing held in June 1980, in the final decision (FR 46 33008, June 25, 1981) the Secretary again amended the transportation credit provisions of the order. The 15 cents per cwt credit for handlers was retained, however, the 15-cent negotiable transportation service charge was modified to allow handlers to negotiate with producers for any farm-to-first plant hauling cost in excess of the 15-cent transportation credit, plus ''the amount that the class use value of the milk at the location of the plant of first receipt was in excess of its class use value at the location where milk was received in the bulk tank unit from which the milk was transferred.'' According to the 1981 decision, this amendment would adjust hauling allowances for handlers to more closely relate the location value of milk to the costs incurred in transporting milk from farms and country plants to distributing plants in the major consuming markets of the market. Additionally, the decision indicated that this change was necessary to reflect current marketing conditions and permit a more equitable competitive situation for regulated handlers, both on an intra market and inter market basis. The decision also applied a 15-cent direct delivery differential for bulk tank milk from New York City out to the 61–70 mile price zone, on the basis that direct delivery differential is applicable to milk received in cans at a plant in the 1–70 mile zone.

In the 1981 decision the Secretary found that the majority of milk moved to distributing plants in 1979 from the 1–70 mile zone moved directly from farms, accounting for about 58 percent of plants in this zone with 48 percent being reloaded. Moreover, the decision found that Order 2 plants located in northern New Jersey received direct shipped milk as did handlers located in Order 4. Thus, inter market price alignment needed to be structured primarily on the basis of handlers obtaining direct shipped milk.

A federation of cooperative associations representing Order 4 producers proposed that Order 2 be amended to return to plant-point pricing, with the direct delivery differential being reduced to 10 cents per cwt, and that the Class I differential at the base zone of Order 2 be increased from the $2.25 level then in effect, to $2.40. This federation of cooperatives believed that this ''package'' of order modifications would provide for proper price alignment between Order 2 and Order 4. While the decision did apply different transportation rates at a rate of 1.8 cents per cwt. outside the base zone of the Order (201–210) and a rate of 2.2 cents per cwt. inside the base zone, it did not provide for a return to plant-point pricing.

While the decision did not adopt plant point pricing, the decision does acknowledge that the amendments adopted tended to establish plant pricing with respect to the classified prices to handlers. However, farm-point pricing was retained with respect to uniform prices to producers. With this being the case, the basic substantive difference between the amendments and plant pricing is the impact on the movement of milk to higher-priced zones for manufacturing use. Under plant pricing, the minimum uniform price payable to producers applies at the location of the plant of first receipt and handlers receive a credit from the producer settlement fund at such uniform price. The decision also concluded that plant-point pricing for producers would provide a greater incentive to haul direct-shipped milk to city plants for manufacturing uses, since there would be a credit from the pool for the full amount that the uniform price transportation differential at the city plant exceeds the transportation differential for the zone of the bulk tank unit. Adopting plant-point pricing for producers would have had the effect of encouraging milk to move long distances to city plants for manufacturing uses when transportation savings could be realized if such milk stayed nearer to manufacturing plants generally located in the milkshed.

Farm-point pricing has undergone many evolutionary changes from its inception in 1961. The original rationale for farm-point pricing, free hauling and the administrative difficulty of determining when milk from bulk tank units was received seems far removed from present-day marketing conditions and the rationale for continuing it. There were a number of years that hearings were necessary to first recognize that the burden of transportation costs rested with handlers. This resulted in handlers being able to successfully argue that with this burden, it becomes much more difficult for the order to establish and maintain uniform prices to handlers as required by § 608(5)(c) of the AMAA. This is evidenced by the nature of the decisions of 1963, 1970, 1977, and 1981. Much ''repair'' to other order provisions was also needed to retain farm-point pricing. Accordingly, farm-point pricing has outlived its intended purpose and the Secretary proposes that it should not be retained in a consolidated Northeast order.

The Need for a Producer-Price Mechanism

As discussed above, farm-point pricing for producers did provide some rational pricing incentives to promote efficiency within the Order 2 marketing area. This can reasonably be summed up by concluding that farm-point pricing would not provide, as plant-point pricing would, incentives to haul direct-shipped milk to city plants for manufacturing uses, since there would not be a credit from the pool for the full amount that a uniform price transportation differential at the city plant exceeds the transportation differential for the zone of the bulk tank unit. Adopting plant pricing would have had the effect of encouraging milk to move long distances to city plants for manufacturing uses when transportation savings could be realized if such milk stayed nearer to manufacturing plants generally located in the milkshed.

In an effort to address the dairy industry structures that have evolved over the past four decades in the three current northeast marketing areas, efforts were undertaken by a major group of dairy farmer cooperatives in the northeast to address what the pricing implications are to producers and handlers as the region moves to a unified plant-point pricing method. This has resulted in a proposal by the Association of Dairy Cooperatives in the Northeast (ADCNE) that include St. Albans Cooperative Creamery, Inc., Land O'Lakes, Upstate Farms Cooperative, Inc., Agri-Mark, Inc., Milk Marketing Inc., Dairylea Cooperative Inc., and Maryland & Virginia Milk Producers Cooperative Association Inc. These dairy farmer cooperatives account for well over half of the milk that would be pooled and priced under the

proposed consolidated Northeast order. Their proposal calls for establishing a producer differential structure that would ''overlay'' the Class I differential structure that would apply in the consolidated Northeast order.

The structure proposed is a county-based plant-point price structure, providing for 14 zones that accommodate the need to reflect existing and longstanding competitive price relationships among plants, while integrating the farm and plant point pricing systems currently used in Order 1, 2, and 4 and with currently state-regulated areas that fall outside of the proposed marketing area. Further, the ADCNE proposed prices at the major cities in the Northeast, including Boston, New York City, Philadelphia, Baltimore, and Washington, D.C. to have specific Class I differential levels that are somewhat different from those recommended in the Option 1A Class I price surface. For example, this decision recommends a New York City Class I differential of $3.15, while ADCNE proposes $3.20. In general, the ADCNE proposal assumes that the Class I differential structure that will be adopted is Option 1A, is the Class I pricing option they strongly support, and is also the Class I pricing option overwhelmingly supported in public comments received from interested parties from the northeast.

With respect to a producer differential surface, the ADCNE proposed that a debit of 5 cents per cwt. be made to the blend price applicable at non-distributing plants in certain zones. The need for the debit, according to the ADCNE proposal, is to make deliveries to distributing plants somewhat more attractive to producers, while decreasing the amount by which manufacturing plants draw on the marketwide pool for transportation values, offering also that such a debit is economically justified and authorized by the AMAA. According to ADCNE, it is distributing plants that provide the revenue, in the form of Class I values which form the blend price paid to producers. Deliveries to manufacturing plants do not contribute to increasing the value to the marketwide pool. The debit, according to ADCNE, is a reflection in part of the Order 2 system, which has priced some 50 percent of the milk in the northeast region, and which does not provide location-based transportation payments for movements from farms to manufacturing plants. The ADCNE proposal provides that deliveries to Class I plants are rewarded under this system with an additional 5-cent payment from the pool for the marketwide benefit conferred a distributing plant's utilization.

For the Western New York State order area of the order, ADCNE also proposed a broad area in which a producer differential of $2.40 per cwt. to producers would be payable on deliveries of producer milk at all plant locations in this area. This portion of the price surface proposed by ADCNE purports to be reflective of the major historical movements of milk from east to west in the region which returned the eastern farm point price to dairy farmers under Order 2's farm-point price system, and that the Western New York State order has not had any location differentials, thereby establishing a ''flat'' price surface in the area. If those plants, for producer pricing purposes, were zoned lower in value reflecting the westerly and northerly distance from New York City or Philadelphia, ADCNE is of the view that the ability of both distributing and supply plants of plants to attract an adequate supply of milk could be in jeopardy. Furthermore, the expectation that Class I utilization of the proposed Mideast order will be nearly 10 percent higher than the Class I utilization in the Northeast order was also offered in support of ADCNE-proposed producer differential level in this area.

The ADCNE proposal also recommends producer differential levels in areas that they believed should be included in either the consolidated Northeast order or the Mideast order through expansion that this proposed rule does include for consideration. Additionally, the ADCNE proposal also addresses producer differential levels at other locations outside of the Northeast region.

Additional supporting and amplifying comments were also provided by Dairylea. These comments supported the major themes offered in the ADCNE proposal for a producer differential overlay to Class I differential levels. Dairylea states that moving directly to a plant-point pricing method would accentuate ''existing inequities and market dysfunctions.'' Dairylea further commented that a plant-point differential schedule would maintain current inter-plant price differences in the current New England and Middle Atlantic orders, but would worsen them for New York manufacturing plants, many of which are cooperatively owned. Their view of the ADCNE pricing proposal is that it maintains economic incentives for milk to move to Class I distributing plants, would provide for more balanced procurement equity among competing manufacturing plants, maintain equitable producer pricing when milk is marketed by transporting it from a higher priced zone to a lower priced zone, and provides a structure that allows for adequate blend price levels in all areas of the Northeast milkshed.

Dairylea further comments that in addressing adopting plant-point pricing, existing ''near-in'' manufacturing plants (plants located in a relatively high differential location) would enjoy a procurement advantage relative to their competitors that are located in a lower priced location. Dairylea recommends narrowing the price difference between manufacturing plants that compete for producer milk and/or finished dairy product sales. To do this, Dairylea supports lowering producer differentials for manufacturing plants that are located in high-valued locations and increasing those differentials at manufacturing plants in areas that have lower location values. Dairylea advocates the ADCNE proposal for a producer differential that is 5-cents lower than those of Class I plants when such plants are located in the same pricing zones. Dairylea's view of this design results in maintaining, or slightly increasing, producer differentials applicable at Class I plants and reducing those applicable at ''near-in'' manufacturing plants. At the same time this would provide for increasing producer differentials at manufacturing plants in central, western, and northern New York. According to Dairylea, this producer pricing surface would present a more equitable marketing environment than strict plant-point pricing currently employed in Orders 1 and 4, while at the same time not threatening the viability of manufacturing plants in those areas of a consolidated Northeast marketing area.

A major theme of Dairylea is its view that Federal milk orders and their provisions should foster an environment under which manufacturing plants are provided equal cost and procurement ability, and not to disfavor such manufacturing plants located in high milk production areas where Class I differentials are lower. This view, as expressed, seems a departure from the intent of Class I differentials serving to attract an adequate supply of milk at locations to satisfy fluid demands. Dairylea also states that the final rule of 1991 that realigned intra-order prices in Order 2 resulted in harm to producers in northern and western New York. While it is not appropriate to specifically revisit this issue and decision here, official notice is taken of the final decision (55 FR 50934, December 11, 1990) that realigned Class

I differentials in the three existing northeast marketing areas.

Comments supporting the ADCNE proposal for a producer pricing surface were also offered by Upstate Farms Cooperative, Inc. The Upstate Farms views served to reiterate the major themes developed in the ADCNE proposal.

Agri-Mark, a part of ADCNE, filed separate and dissenting views on the ADCNE proposal. Conceptually, Agri-Mark notes that plant and farm-point pricing are different, but notes further that the differences are not always unfavorable. Agri-Mark submits that under plant-point pricing, all producers shipping to the same plant receive the same minimum order blend price regardless of where their farm is located. Under farm-point pricing, farmers shipping to the same plant receive different prices under the order depending on where their farm is located. Farms closer to New York City, Agri-Mark notes, receive a higher price than farms farther from the city, even though their milk ends up in the same place.

As to the efficiency arguments touted to be derived from farm-point pricing, Agri-Mark notes that most manufacturing plants, especially cheese plants, were built in the northeast prior to the adoption of farm-point pricing and not in response to it. Rather, says Agri-Mark, these plants were built at their present locations because of their proximity to abundant milk supplies. The procurement problems for manufacturing plants that Order 2 entities alert us to, did not arise in New England manufacturing plants under plant-point pricing even though these plants were located as far north as possible within the milkshed for New England.

Simply put, Agri-Mark believes that rather than decreasing the differential between manufacturing plants and city distributing plants, an increase is justified. They are also of the opinion that manufacturing plants located far from higher-priced zones will maintain an advantage even with the adoption of strict plant-point pricing because this milk does not need to travel long distances to reach manufacturing plants. The ADCNE proposal would cause Agri-Mark producers to receive lower prices that competitive price relationships do not warrant.

The Agri-Mark view of Federal milk marketing orders differs substantially from the views expressed by Dairylea. Agri-Mark states that the role of Federal milk marketing orders is to treat all producers equitably relative to how their milk is used and not to weaken price integrity by promoting or causing producers to compete for Class I sales. This is best accomplished, according to Agri-Mark, with appropriate pooling requirements and Class I differentials to satisfy the Class I demands of the market. Agri-Mark fears that if the regulatory pricing plan gives a distributing plant an advantage over a cooperative manufacturing/balancing plant in the same zone, that plant can use this advantage for itself instead of passing it along to farmers to offset transporting their milk to market. A 5-cent debit to the Class I differential schedule is, in the view of Agri-Mark, significant. If so set, Agri-Mark submits, pressure will come from distributing plants to see this 5-cent price difference grow.

Lastly, in their opposition to the ADCNE proposal, Agri-Mark notes that no manufacturing plant has been built in any city zone for decades, noting that the only significant plants in such areas for the northeast are older plants producing nonfat dry milk and butter and serve to balance the Class I needs of city markets, concluding that such plants are there for common sense and efficiency reasons. In support of this observation, Agri-Mark notes that existing Class I differentials have not been adjusted to more fully account for increases in hauling costs.

A recommendation on whether or not to adopt a producer pricing differential structure that differs from a Class I differential cannot be made in this proposed rule. The issue before the Department is to examine the impact of the change from farm-point to plant-point pricing on producers as part of recommending the adoption of plant-point pricing for the new consolidated order. The change to plant-point pricing will affect approximately one-half of the producers in the consolidated marketing area and is a significant departure from historical methods of distributing the revenue that accrues from classified pricing to producers. Plants will not experience significant change since plants currently regulated under Order 2 already account to the marketwide pool at the Class I location differential value. The issue then, tends to focus on how to pool and distribute the revenue as equitable as possible to producers.

There are significant differences between Option 1A and Option 1B that may result in price relationships never before experienced by either producers or handlers in the northeast. This, in and of itself, may cause both proponents for and against a producer price differential to reconsider their position in the need for and development of a producer price surface founded on the pricing structure of Option 1A. Nevertheless, under either Option 1A or Option 1B, further analysis is needed in determining the need for adjusting producer blend prices by a method that differs from that currently applied to all orders, including the development of appropriate order language.

Competitive equity between manufacturing plants is already ensured by the classified prices applicable to handlers who operate such plants. In fact, this proposed rule suggests a uniform Class III and Class IV price be applicable for all locations. The more appropriate issue this proposal seems to address is that manufacturing plants are often cooperatively owned. All entities, including cooperatives in their capacity as handlers, account to the marketwide pool at the manufacturing price for milk received at their plants. The price paid to producers is the blend price for all milk pooled on the market and that was priced according to its use. Cooperatively owned manufacturing plants located in higher priced areas will pay a higher blend price to producers who deliver milk to that location provided they meet the performance requirements for being pooled thereby demonstrating the appropriate degree of association with the market. In this regard, it is worthy to note that not all manufacturing plants in the high-valued zones in the New York marketing area are pool plants. Blend prices are adjusted everywhere according to the location value of the plant. Adjusting producer blend prices on the basis of whether or not milk was delivered to a distributing plant or to a manufacturing plant seems to create a form of producer price discrimination that classified pricing and the mechanism of marketwide pooling and its related provisions attempt to mitigate. Such pooling provisions provide a degree of equity to producers in the form of a uniform blend price adjusted only for the location value on all milk pooled on the market. Classified pricing and marketwide pooling have served well to mitigate the price competition between producers seeking preferred higher-valued outlets for their milk, while at the same time ensuring handlers uniform prices, adjusted only for location, in the prices they pay for milk. This proposal, as currently developed, seems to take a step backward in that it may be inadvertently creating a degree of price competition between producers that classified pricing and marketwide pooling sought to minimize.

As Dairylea commented, the 1991 rule that realigned prices in the three current northeast orders may not have gone far

enough is establishing a Class I differential structure and indeed may have resulted in harm to producers located in northern and western New York. Prior to the 1991 final rule, the price difference between the New York base zone and New York City was 59 cents. The 1991 final rule increased this to 72 cents, but in doing so, the differential at the base zone was lowered by 13 cents. This resulted in a lowering of blend prices to producers in the far reaches of the milkshed. This observation may provide the basis for further examination of the Class I differential structure presented under Option 1A. Specifically, a 5-cent increase in the New York Class I differential and a similar increase in the Class I differential at Philadelphia, together with appropriate location adjustments between these pricing points, may accomplish what a producer price differential schedule does not seem to accomplish at its current state of development.

A submission from New York State Dairy Foods, Inc., (NYSDF) a trade association representing dairy product manufacturers and retailers voiced the need for raising the New York City Class I differential. NYSDF proposed an 8-cent per cwt. increase to reflect the reality of higher hauling rates. If this proposal is accepted, this would raise the Class I differential in New York City from the current $3.14 to $3.22. According to NYSDF, the 8-cent increase may not be sufficient depending on the length of time needed to implement milk order reforms. NYSDF also commented on their support for retaining farm-point pricing, but offered no compelling arguments for doing so.

Marketwide Service Payments

Cooperative Service Payments. The Secretary proposes that cooperative service payments as part of a marketwide service payment provision for the consolidated Northeast order should not be included in a consolidated Northeast order. As proposed by ADCNE a 2-cent per cwt. payment would be made out of the marketwide pool to cooperatives and non-cooperative entities for funding ''information and policy services'' that would be of marketwide benefit. Cooperative service payments of this sort currently are provided for under terms of the New York-New Jersey order, but are not provided for in either the New England or Middle Atlantic orders. However, under the New York-New Jersey order, cooperative service payments are made only to qualified cooperatives that meet the conditions specified under the order and does not provide for such payments to non-cooperative entities.

Rationale offered in support for a cooperative service type payment to cooperatives and non-cooperative entities were based on recognizing that in a regulatory pool structure, private parties provide important services that are of benefit to everyone involved in the marketwide pool, including the promulgation, amendments to, and administration of the order. Not to provide a mechanism for the recovery of a portion of the expense involved in providing such services would disadvantage those incurring these expenses while everyone in the market benefits as a result of these services.

Qualification criteria presented for entities eligible to receive this payment included a demonstration to the market administrator that it provides information with respect to market order prices and marketing conditions, that it has retained legal and economic staff or consulting personnel available to participate in marketing order amendatory proceedings, to consult with the market administrator with respect to marketing order issues, and that the entity pool at least 2.5 percent of the order's total milk volume.

As presently presented there is not a compelling reason to adopt this sort of compensatory plan to reimburse those entities that incur these costs. Market administrators and their staffs make themselves available to meet with, discuss, and aid in formulating positions that are reflective of the need of the marketing area as a normal part of their duties. Additionally, there are numerous provisions in the order that require as a matter of course, the issuance of reports, prices, and other information that affect all marketing order participants and to provide service to the entities affected by the regulatory plan of the order. Finally, no other current or recommended consolidated order recommends providing for such cost compensation. Cooperative and proprietary handlers in the New England and Middle Atlantic marketing areas included in the consolidated Northeast order, as well as entities in all other marketing areas have not experienced or have demonstrated any of the harm or ''disadvantage'' that arises, or may arise, if such costs are not shared by the entire pool of producers in the marketing area. This proposed rule can only assume that industry participants that have an interest in developing the promulgation and amendments to marketing orders would be willing to do so at their own expense. The positions and arguments offered are largely issues of the self-interest of entities. As such, self-interest may or may not be of marketwide benefit.

Balancing Payments. The Secretary proposes that a marketwide service payment plan offered for inclusion in the consolidated Northeast order includes a 4-cent per cwt. marketwide service payment to qualified handlers that perform market balancing from the marketwide pool should not be included in the consolidated Northeast order.

The proposal for balancing payments from the marketwide pool is intended to reflect that there are costs that handlers incur in balancing the Class I needs of the market and in providing for clearing the market of temporary surpluses. According to the proponents, these balancing costs are not fully recoverable from Class I handlers, however the benefit that results from this service being provided is a benefit of all producers in the market.

Handlers that incur the costs would be those handlers that would receive partial cost reimbursement. Cooperatives would be eligible to form common marketing agencies or federations for purposes of qualifying for balancing payments. Such handlers would include those who: (1) demonstrate ownership or operation of a balancing plant with the capacity to process a million pounds of milk per day into storable products such as cheese, butter, and nonfat dry milk and that such handler also represent at least 2.5 percent of the total volume of milk pooled under the order; (2) have under contract and the obligation to pool on a year-round basis at least 8 percent of the market's milk volume; (3) own a balancing plant that must be made available to other handlers or cooperatives at the request of the market administrator; (4) qualify to provide pool producers with a temporary market for their milk for up to 30 days at the request of the market administrator; and (5) demonstrate to the market administrator that their utilization of milk in Class I uses is greater than the minimum shipments required for pool plant qualification under the order.

There are several reasons for not recommending balancing payments for the consolidated Northeast order. First, the proposed Northeast order consolidates two current orders, New England and the Middle Atlantic, that do not currently provide for balancing cost offsets to handlers for such purposes and that these markets have not experienced any undue harm or disadvantage by not providing for this sort of cost offset. Secondly, and in addition to expressed opposition to

compensate handlers for balancing the market, an appropriate class price has been provided for market clearing purposes—the Class III—A price. It is a price that is applicable in all current Northeast orders, and is continued in this proposed rule as the Class IV price. While these two class prices are not the same (as explained in the BFP section of this decision), they are conceptually similar in that handlers have been provided with a market clearing price and further compensation beyond this is not warranted. Lastly, the proposed 4-cent per cwt. level is unexplained with respect to how adequately it tends to offset balancing costs.

The ''Pass-Through'' Provision

Currently, the New York order provides for what is commonly referred to as the ''pass-through'' provision. The intent of this provision is to provide for a degree of competitive equity for handlers that pay the order's Class I price for milk so that they can compete with handlers in unregulated areas that do not. This provision has been in place in the New York order since 1957 and is a part of how the order allocates and classifies milk. In functional terms, the pass-through provision removes the amount of milk distributed outside of the marketing area from the full Class I allocation provisions of the order, thereby providing a degree of price relief to handlers who compete with other handlers who are not held to the pricing provisions of the order in unregulated areas. Regulated New York handlers currently compete with unregulated handlers in the unregulated areas of Pennsylvania and other areas in the Northeast region.

The current provisions of the New England and Middle Atlantic orders do not have this provision although they too adjoin similar non-federally regulated areas. Handlers regulated by these two orders also compete with these same handlers for Class I sales. The merging and expansion of these three Northeast orders continue to result in areas that adjoin the recommended Northeast order that would not be regulated.

While there were proposals both for and against retaining a pass-through provision in the consolidated order, the need for it was expresses on the basis of the extent the Northeast consolidated order would be expanded to include currently unregulated areas. Generally, handlers support continuing to provide for a pass-through provision, and this position can only be considered reinforced given the limited degree of expansion of the consolidated Northeast order. If the entire Northeast region would fall under Federal milk order regulation, the need for the pass-through would be moot.

The Secretary proposes that a pass through provision, even in light of the limited expansion suggested for the consolidated Northeast order, should not be included. Class I prices charged to handlers that compete within the marketing area for fluid sales are determined by the location value of their plants. The Class I differential structure recommended by either Option 1A or Option 1B both recognize the location value of milk for Class I uses and are both designed to establish Class I differential values to cause milk to be delivered to bottling plant to satisfy fluid demands. Accordingly, any handler located in high-valued pricing areas will be charged for the location value of Class I milk at their plant location regardless of whether or not they compete with other handlers for fluid sales in areas where the location value of Class I milk at these plant locations are lower. This location value pricing principle should be extended to address handlers competing for sales with handlers who do not pay the same price for Class I milk in unregulated areas.

Seasonal Adjustments to the Class III and Class IV Prices

The three northeast orders to be consolidated into a single Northeast order currently provide for a seasonal adjustor on Class III and Class IIIA milk prices. These provisions have been a part of these three orders for more than 30 years. Prior to the adoption of the Minnesota-Wisconsin (M–W) price series in the mid-1970's, these markets established the equivalent of the modern Class III price on the basis of what was known as the U.S. Average Manufacturing Grade Milk-Price Series (U.S. average price).

The U.S. average price series was a competitive pay price series, but differed from the M–W in that it recorded price averages consistently below the M–W that was rapidly being adopted elsewhere in the country as the appropriate price for surplus uses of milk and used as a price mover for higher-valued class prices. Given the national marketplace in which surplus diary products compete for sales, a mechanism was needed to align these two differing price series. Accordingly, seasonal adjustments to the Class III price were developed and made a part of these orders. These seasonal adjustors were found not only to be warranted for better price coordination between these two price series, but also served to encourage handlers to dispose of the maximum amount of milk in Class I uses.

By the mid-1970's, the M–W was adopted to replace the US. average price series and the seasonal adjustors were retained. The reason for retaining these adjustments were indicated to encourage handlers to make more milk readily available for fluid use in the short production months and to facilitate the orderly disposition of excess reserve milk supplies in flush production months. Although some regional price disparity was acknowledged to result from retaining these adjustments, they were nevertheless retained because there was no evidence that providing for such adjustment had led to any interregional problems in the marketing of the reserve milk supply.

Agri-Mark, a major cooperative in the northeast, has proposed that seasonal adjustments continue in the consolidated Northeast order. The main thrust of their proposal is that markets with relatively high Class I use create a burden on the manufacturing sector in their areas. They view seasonal adjustments as also assisting in sending the proper economic signal to manufacturers. This is important, according to Agri-Mark because the seasonal adjustment provides an economic ''disincentive'' for Class III and Class IV manufacturers to use milk in the fall when less producer milk is available and additional supplies are needed for Class I uses.

The Secretary proposes that as presently formulated, seasonal adjustors to the Class III and Class IV prices should not be incorporated into the provisions of the consolidated Northeast order. This proposed rule proposes a much more permanent replacement for the current BFP. If the suggested BFP is adopted in all new consolidated orders, there is no compelling reason offered at this time to contemplate continuing seasonal adjustments to Class III and Class IV prices in light of how these prices would be derived. They are also not proposed for orders that are expected to have Class I utilizations similar to those anticipated in the consolidated Northeast order and who similarly have important manufacturing activity in such markets.

6b. Southeast Regional Issues

The 3 proposed orders for the Southeastern United States—Florida, Southeast, and Appalachian—are faced with a different set of marketing conditions than other orders. The Southeastern United States is one of the fastest growing areas of the country but the most deficit area in terms of milk

production per capita. From 1988 to 1995, the population of the 12 Southeastern states rose from 57.9 million to 63.5 million. By the year 2000, the population is expected to reach 66.8 million people.

While population increases in the Southeast, milk production in the 12 Southeast states (i.e., Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia) has been decreasing—from 15.4 billion pounds in 1988 to 13.7 billion pounds in 1996. The net result of these opposite trends is a widening gap between the local supply of milk for fluid use and the demand for such milk.

Unlike other parts of the country, the Southeast has few facilities for handling surplus milk. Consequently, surplus production during the months of January through June must, in some cases, be shipped hundreds of miles for processing at manufacturing plants generally to the north. For this reason, the provisions in these orders must be aimed at the twin goals of encouraging supplemental milk to move to these markets during the short production months—generally July through December—but they must also discourage supplemental milk to move to these markets when it is not needed in the flush production months—generally January through June—because such milk would simply displace local milk and increase cooperative organizations' costs to dispose of the milk.

Transportation Credits

As a result of the need to import milk to the Southeast from many areas outside the Southeast during certain months of the year, transportation credit provisions were incorporated in the Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville orders in August 1996. These provisions provide credits to handlers that import supplemental milk for fluid use to the market during the short production months of July through December. The provisions restrict credits to producers and plants outside of the marketing areas. The credits are also restricted to producers who supply the markets during the short season and are not applicable to producers who are on the market throughout the year.

Following the initial implementation of transportation credits in August 1996, the provisions were modified in a final decision issued on May 12, 1997. The amendments became effective on August 1, 1997, in 3 of the 4 orders.[33]

The Secretary proposes that transportation credit provisions should be retained in the new Southeast and Appalachian orders but should not be included in the Florida order. Written comments received in response to the advance notice of proposed rulemaking indicate that producers in the Southeast favor retention of these provisions for these two orders. The Secretary proposes that the provisions should not be included in the Florida order, however, because that market is largely supplied by 2 cooperative associations which are able to recoup their costs of supplying the market with supplemental milk.

With the consolidation of orders, the Secretary proposes that some conforming changes should be made to the transportation credit provisions of the Southeast and Appalachian orders. Section 82(c)(1) of the present orders limits transportation credits on transferred bulk milk to plants that are regulated under orders other than the southeast orders that currently have the provisions, and section 82(c)(2)(ii) limits the area where farms may be located to be eligible for transportation credits on milk shipped directly from producers' farms. In §§ 1005.82(c)(1), 1007.82(c)(1), 1005.82(c)(2)(ii), and 1007.82(c)(2)(ii), the references to ''1011 and 1046'' should be removed.

The addition of northwest Arkansas and southern Missouri to the Southeast marketing area will make those 2 areas ineligible for transportation credits. This change in the application of the credits would naturally follow from the logic for incorporating these 2 areas in the Southeast marketing area. Specifically, northwest Arkansas and southern Missouri are regular sources of supply for handlers in the Southeast marketing area and, in addition, include plants that compete for sales with handlers regulated under the Southeast order. Accordingly, the producers in these 2 areas should, and will, regularly share in the pool proceeds of the Southeast market. Of course, since transportation credits are designed to attract supplemental milk to the market for fluid use from producers who are not regularly associated with the market, transportation credits should not, and will not, apply to a farm or a plant in northwest Arkansas or that portion of southern Missouri that is to be included in the Southeast marketing area.

[33] The Tennessee Valley order, as amended, was not approved by producers. The order was terminated effective October 1, 1997.

Pooling Standards

A number of comments were submitted regarding the issue of pooling standards in the southeast region. The Southeast Dairy Farmers Association (SDFA) recommended that pooling standards be maintained at levels that are as strict or stricter than current regulations and that southeastern milk marketing orders contain pooling requirements that reflect the deficit nature of these markets. SDFA argued that such provisions would discourage the movement of milk into and out of a Federal marketing area that does not normally serve the area unless the milk was actually needed. The association stated that performance requirements for plants are an important element in ensuring that southeastern fluid markets are adequately supplied on a year-round basis and in ensuring that only those plants that have as their principle purpose the supplying of the markets' fluid milk requirements receive the benefits of higher uniform prices. Currently, pooling standards vary between markets and regions, and the association believes that these varying standards should be maintained. SDFA supports a 50% route disposition requirement for pool distributing plants and recommends that the in-area route disposition requirement be standardized at 15% and the 1500-pound daily average exemption be changed to 150,000 pounds per month.

The National Farmers Organization (NFO), recommends that pooling standards for all of the orders recognize and accommodate the pooling on a year-round basis of milk supplies which are actually required for that market's Class I needs on a seasonal basis. NFO suggests that each order should be viewed separately in determining the standards and urges the Department to carefully evaluate pooling provisions to assure equity throughout the system. Another commentor, Middlefield Cheese of Ohio (Middlefield), recommends that all orders have the same pooling requirements. Middlefield states that varying pooling standards between orders create great difficulty in procuring milk for small businesses. It argues that uniformity would allow milk to be economically and efficiently marketed to where it is needed as opposed to a ''large co-op dictating control over the milk market.''

One of the major cooperatives operating within the Southeast, Mid-America Dairymen, Inc. (Mid-Am), recommends that the pooling standard for distributing plants in high utilization markets should be 50% Class I. Mid-Am also recommends that market

administrators be given the authority to adjust shipping requirements in all orders.

A number of comments addressed the issue of where a plant should be regulated and whether there should be a ''lock-in'' provision which would keep a distributing plant regulated under the order where it is located rather than where it may have the most sales. SDFA supports the adoption of lock-in provisions in the consolidated southeast orders. Prairie Farms Dairy, Inc. states that pool distributing plants should be regulated where located rather than where route disposition occurs. Another cooperative association, Milk Marketing Inc. (MMI), states that competition for local milk supply and a competitive pay price with neighboring plants is much more important to both producers and processors than a price that is competitive with other plants that compete for sales in a given area. Therefore, MMI recommends regulating a distributing plant in the market where it is located rather than on the location of its sales. MMI contends that the Federal milk order program should be concerned with attracting milk to a plant, not the retail location. The cooperative states that plants in unregulated areas should continue to be regulated based on sales areas.

Some comments received addressed supply plant requirements. SDFA recommends that for the southeastern orders the supply plant shipping requirement be 60% of a plant's receipts during July through November and 40% during December through June. However, SDFA also acknowledges that specific exceptions to this principle may be necessary to accommodate specific needs and should be considered on a case by case basis.

SDFA states that supply plant performance requirements should not be changed in an effort to allow all Grade A milk to be included in a marketwide pool. Such a change, it contends, would result in disorderly marketing and jeopardize the viability of local supplies. SDFA requested year-round shipping requirements for supply plants under Orders 5, 6, and 7.

SDFA also states that automatic pooling should be provided for manufacturing or receiving plants located in the marketing area if the plant is operated by a cooperative association, but only if the cooperative has a substantial association with the market.

MMI maintains that southeastern orders would be well-served by provisions which allow reserve supply plants in the North and West to participate in higher blend prices throughout the year, in exchange for greater assurance of a milk supply in the short production months when additional milk is needed. Land O'Lakes (LOL) recommended the elimination of shipping requirements for supply plants, but suggested that supply plant operators make a commitment to supply the market when additional milk is needed. LOL also supports the adoption of a ''call'' provision in each order that would allow the market administrator to require supply plant shipments on an as-needed basis.

Another cooperative operating in the Southeast wrote that reserve supply plant qualification should be based on total cooperative performance but that such plants should not be required to be located in the marketing area. This cooperative contends that if a cooperative is performing a balancing function for the market, it should not be discriminated against just because its plant is not located in the marketing area.

Suggestions were also received concerning certain specialty plants that are located in the Southeast. SDFA recommended amending the *route disposition* definition to accommodate a specialty fluid milk plant in Jacksonville that disposes of long shelf life dairy products. SDFA states that although a large portion of its fluid supply is disposed for Class I use, because of the nature of its business, it is likely that the plant would not meet the 50% route disposition requirement for pool status.

Proposal: The Secretary proposes that the pool plant provisions for the Appalachian, Florida, and Southeast orders under consideration should closely follow the provisions now contained in the southeast orders. The performance standards proposed are appropriate for the needs of these seasonally-deficit markets.

Section 7(a) of each Federal milk order describes the pooling standards for a distributing plant. To qualify for pooling under each of the 3 orders, a distributing plant must dispose of 50 percent of the total fluid milk products received at the plant as route disposition. In addition, at least 10 percent of the plant's receipts must be disposed of as route disposition in the marketing area. These standards would indicate that a distributing plant is closely associated with the fluid market and, therefore, should be part of the marketwide pool.

Paragraph (b) of Section 7 would accommodate the pooling of plants that specialize in aseptically-packaged products. There are at least two such plants in the southeast markets: the Ryan Foods Company plants in Jacksonville, Florida and Murray, Kentucky.

Unlike a typical distributing plant, a plant specializing in aseptically packaged products may have a more erratic processing schedule, reflecting the longer shelf life of the products packaged at the plant. Consequently, a plant's Class I utilization may vary considerably from month to month. In the past, such variability has resulted in shifting pool status for some of these plants from one order to another. In some months, the plant may have been partially regulated, even though all of the milk received at the plant was priced under the order. This type of regulatory instability is not conducive to orderly marketing. To guarantee greater regulatory stability for these plants, they should be fully regulated pool plants if they are located in the marketing area and have route disposition in the marketing area. However, if the plant has no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

The Secretary proposes that each of the three orders also should specify pooling standards for a supply plant. For the Appalachian and Southeast orders, a supply plant must ship at least 50 percent of the milk physically received during the month from dairy farmers and cooperative bulk tank handlers. In the case of the Florida order, the shipping percentage should be slightly higher at 60 percent.

Unlike supply plant provisions in other orders, the supply plant provisions in the three southeast orders should not recognize shipments directly from producers' farms as qualifying shipments for a supply plant. At the present time, there are no plants qualifying as ''pool supply plants'' under any of the southeast orders.

Almost all of the plants that balance the fluid needs of the Southeast are operated by cooperative associations. These ''balancing plants'' qualify for pooling based upon the performance of the cooperative association and not based upon shipments from the plant alone. The Secretary proposes that balancing plant provisions should be maintained for the three southeast orders.

A balancing plant may qualify based upon shipments directly from producers' farms as well as shipments from the plant. To qualify as a balancing plant, the plant must be located within the order's marketing area. This requirement ensures that milk pooled through the balancing plant is economically available to processors of fluid milk if needed. However, in the

case of the Appalachian order only, a balancing plant also may be located in the State of Virginia. This provision has been in the Carolina order and should be continued in the Appalachian order. The performance standards for a balancing plant should be 60 percent of producer receipts under each of the orders every month of the year.

There is no necessity to seasonally adjust the supply plant and balancing plant shipping requirements for the three southeast orders because the standards proposed are flexible enough to accommodate the disposal of surplus milk during the flush production season. In addition, the Secretary proposes that each of the three orders should contain a provision to allow the market administrator to increase or decrease shipping requirements and other pooling standards by up to 10 percentage points. This provision also should be included in the producer milk section of all three orders with respect to the percentage of milk that may be diverted and the number of days in which a producer's milk must be received at a pool plant.

In addition to the provisions described above, the Secretary proposes that each of the southeast orders should contain a provision to allow unit pooling of distributing plants operated by the same handler. The proposed rule is based upon the provision that has been in the Southeast order since 1995.

Some distributing plants may meet the pooling standards of more than one order. Consequently, the Secretary proposes that it is necessary to specify the rules for determining where a plant will be regulated. Under the southeast orders, if a plant meets the pooling standards of the order and is located in the order's respective marketing area, the plant should be regulated under that order even if it has greater sales in some other order's marketing area. This provision has evolved as a result of several price alignment problems in the Southeast involving a plant located in one marketing area but regulated under another order. In every such case, a plant's supply of milk was put in jeopardy as a result of a lower blend price under the order in which it became regulated based on its sales. Notwithstanding the merging of several of the smaller markets in the Southeast, the Secretary proposes that this provision should be retained for the southeast orders to preclude a repetition of this problem. There was widespread support in comment letters for retention of this provision.

In the case of a distributing plant that is not located within any order's marketing area, the Secretary proposes that a different standard should apply. Since, in this case, it cannot be presumed with certainty that a plant is most closely associated with the market in which it is located, its association with a market should be determined based upon where it has the most sales.

Producer-Handler

The Secretary proposes that the producer-handler provisions for the three southeast orders should be very similar to the current provisions. To qualify as a producer-handler, a dairy farmer would have to have route disposition in excess of 150,000 pounds per month; otherwise, the producer's plant would be exempt from regulation pursuant to a provision that has been uniformly adopted for all orders.

To qualify as a producer-handler, a dairy farmer may receive no fluid milk products from sources other than his or her farm and may dispose of no fluid milk products using the distribution system of another handler. Finally, the dairy farmer must provide proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are his/her own enterprise and are operated at his/her own risk.

At the present time, there are three or four producer-handlers operating in the southeast markets. None of these operations would lose their status as producer-handlers under the provision recommended for new southeast orders.

Producer/Producer Milk

The Secretary proposes that the producer and producer milk definitions recommended for the three southeast orders should be nearly identical to the provisions now in the individual orders. These provisions define which dairy farmers are eligible to share in the proceeds of the marketwide pool.

A *producer* should be defined as a dairy farmer whose milk is received at a pool plant, diverted to a nonpool plant, or received by a cooperative association acting as a bulk tank handler. It excludes a producer-handler, a dairy farmer whose milk is delivered to an exempt plant, or a dairy farmer whose milk is reported as diverted milk under the provisions of another Federal order.

The proposed diversion limits that are specified in the producer milk section should be slightly different among the three southeast orders. To qualify for diversion to a nonpool plant, a minimum amount of a producer's milk should be received at a pool plant during the month (i.e., this is called a ''touch-base'' requirement). Under the Appalachian order, six days' production should be received at a pool plant during each of the months of July through December, and two days' production should be received at a pool plant during each of the other months of the year. Under the Southeast order, ten days' production should be required to be delivered to a pool plant during each of the months of July through December to qualify a producer's milk for diversion to a nonpool plant. During the months of January through June, 4 days' production should be required to be delivered to a pool plant.

Under the proposed Florida order, which will have a higher Class I utilization and less need to divert milk, a producer should be required to deliver at least ten days' production to a pool plant during every month of the year in order to be eligible for diversion to a nonpool plant. These proposed standards are comparable to those required under the separate Florida orders.

The total quantity of milk which may be diverted by a pool plant operator or cooperative association during the month also should vary by market as well as by month. Under the Appalachian order, a pool plant operator or cooperative association should be permitted to divert 25 percent of their producer milk during the months of July through November, January and February. During the months of December and March through June, the total diversion limit should increase to 40 percent of producer milk receipts. The Secretary proposes that the Southeast order should provide a total diversion limit of 33 percent during the months of July through December, and 50 percent during the other months. The proposed diversion limits under the Florida order should be 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months.

The proposed ''touch base'' requirements and gross diversion limits described above should be adjustable by the market administrator to assure orderly marketing and/or efficient handling of milk in the marketing area. This procedure is described in §§ 1005.13(d)(7), 1006.13(d)(6), and 1007.13(d)(7).

Although a ''dairy farmer for other markets'' provision was requested for the new orders by some producer organizations, it was opposed by others. The Secretary does not propose inclusion of this provision in the three southeast orders at this time. Such a

provision would restrict the free movement of milk as needed between market. The proposed diversion limits and touch-base requirements in the southeast orders should preclude the association of milk with these markets when such milk is not needed at pool plants.

Report of Receipts and Utilization

The Secretary proposes that to accommodate the payment schedule desired for the three southeast orders, the handler's report of receipts and utilization must be in the market administrator's office no later than the 7th day of the month. The producer payroll report will be required by the 20th day of the month. The information to be included in these proposed reports is essentially identical to the current order provisions.

Payments for Milk

The Secretary proposes that the southeast orders should provide uniform payment schedules for payments to and from the producer-settlement fund and to producers and cooperative associations. Payment to the producer-settlement fund should be made by the 12th day of the month and payment from the producer-settlement fund should be made one day later.

In the case of payments to producers and cooperative associations, the Secretary proposes that the merged Florida order should maintain the longstanding three-payment schedule that has been part of the present Florida orders for many years. The partial payments to producers under the new Florida order should be made on the 20th day of the month for milk received during the first 15 days of the month and on the 5th day of the following month for milk received during the remainder of the month. The rate of payment should be at not less than 85 percent of the preceding month's uniform price, adjusted for plant location and for proper deductions authorized in writing by the producer. The final payment for milk received during the previous month should be made on or before the 15th day of the month.

The Secretary proposes that the Appalachian and Southeast orders should have identical payment schedules. The partial payment for milk received during the first 15 days of the month should be made on the 26th day of the month. The rate of payment should be 90 percent of the preceding month's uniform price. The final payment should be required to be received by the producer on or before the 15th day of the following month. The rate of final payment for all 3 orders should be the preceding month's uniform price adjusted for butterfat, plant location, partial payments, marketing services, and proper deductions authorized in writing by the producer.

Each order now requires payment to a cooperative association to be made one day earlier than the payment to an individual producer. The Secretary proposes that this practice should continue under the new orders.

6c. Midwest Region

Upper Midwest Order

Pool Plant

The Secretary proposes that the pool distributing and pool supply plant definitions of the proposed consolidated Upper Midwest order should use the standard order language used in other orders, adapted to marketing conditions in the Upper Midwest.

The proposed *pool distributing plant* definition specifies that for a plant to be a pool distributing plant, it must have 15 percent or more of its total receipts of bulk fluid milk distributed as route disposition. This percentage is considerably lower than the percentage used in the Chicago Regional order, which varies from 30 percent to 45 percent depending on the month. However, the current Upper Midwest order uses a percentage based on the marketwide Class I percentage for the same month of the previous year. During ''normal'' months this percentage is approximately 15 percent. When some milk is held off the pool for economic reasons (primarily unusual price differences between classes), the percentage may vary considerably, ranging from the ''normal'' 15 percent to over 50 percent. Use of a constant percentage at approximately the market Class I percentage will reduce the current opportunities available to distributing plants to become partially regulated by manipulating their reported receipts and diversions of milk. In addition, the proposed language should eliminate month-to-month uncertainty caused by basing handlers' regulatory status on the market's fluctuating utilization percentage.

In addition to specifying the route disposition percentage at 15 percent, the proposed percentage would be calculated on the basis of the total receipts of bulk fluid milk products physically received at the distributing plant. Currently both the Chicago Regional and Upper Midwest orders include milk diverted from the distributing plant in the total bulk receipts used to compute the route disposition percentage.

The Identical Provisions Committee recommended that the in-area distribution criteria for pool distributing plants be 15 percent of total route disposition. The Committee explained that use of total route disposition rather than bulk receipts as the denominator would reduce opportunities for handlers to manipulate the manner in which they may report their operations to avoid regulation. Currently in the Chicago Regional and Upper Midwest orders the in-area route disposition standard is computed using the same basis (bulk receipts, including diversions) as is used to determine whether a plant meets the definition of a pool distributing plant.

The Secretary proposes that provision be made for a single handler to form a unit of distributing plants and manufacturing plants, all of which must be located within the marketing area. The unit would have to meet the requirements for a pool distributing plant and at least one of the plants in the unit would be required to meet the pool distributing plant requirements as a separate plant. Plants not meeting the pool distributing plant definition would be required to have disposition of packaged fluid milk products, packaged fluid cream products, or cottage cheese and other soft manufactured products of at least half of their receipts of Grade A bulk fluid milk products, including milk diverted by the plant operator.

Manufacturing plants traditionally have been included in units with distributing plants because the manufacturing plants produced products such as packaged fluid cream, sour cream, and cottage cheese that are marketed in conjunction with bottled fluid milk products. In addition, some of these plants produce a limited quantity of fluid milk products. Handlers have argued that the operator of a free-standing manufacturing plant that manufactures these complementary products should be able to pool its milk supply for both (or for several) plants as if all of the products were made in the bottling plant.

Both the Chicago Regional and Upper Midwest orders contain a provision for a distributing plant unit. Although the current Chicago Regional order does not specify the types of products that may be manufactured at plants in the unit, the Upper Midwest order does. The Secretary proposes that it is reasonable to place restrictions on the types of products that are disposed of from the manufacturing plants in the unit, since these plants would receive the benefits reserved for pool distributing plants and

shipments from supply plants to the plants in the unit would be considered in determining pool supply plant qualifications.

A *pool supply plant* operator should ship as qualifying shipments at least 10 percent of the plant's receipts of milk from producers, including milk diverted by the handler, each month. As in the current Chicago Regional order, it is proposed that such shipments may be made to pool distributing plants, pool distributing plant units, plants of producer-handlers, partially regulated distributing plants, or distributing plants fully regulated by other Federal milk orders. The extent of shipments to partially regulated distributing plants to be used for qualification would be limited to the quantity classified as Class I. Qualifying shipments to distributing plants regulated by other Federal milk orders should be limited to the quantity shipped to pool distributing plants, and may not be agreed-upon Class II, Class III or Class IV utilization. Shipments directly from farms to pool distributing plants and to plants contained in pool distributing plant units should be included as shipments that help to meet the percentage qualification standard.

The proposed 10 percent shipping requirement is approximately 5 percentage points less than the anticipated Class I percentage for the proposed consolidated Upper Midwest order. The 10 percent shipping standard is greater than the current individual supply plant shipping standard and equal to the maximum shipping percentage required of pool units during the qualifying period in the current Chicago Regional order. The standard under the current Upper Midwest order, which uses the Class I use percentage of the same month in the previous year as the supply plant shipping percentage, would exceed the proposed percentage. Also under the current Upper Midwest order, a reserve supply plant must ship 10 percent of its receipts to pool distributing plants during January through June, and the marketwide Class I percentage for the same months of the preceding year for the months of July through December.

Although the proposed shipping percentage is below the estimated Class I percentage for the proposed Upper Midwest order, the 10 percent shipping standard should be appropriate, in view of the fact that many distributing plants have a supply of milk from their own producers. In September 1997, approximately 27 percent of the milk pooled or received at distributing plants in the Chicago Regional order was pooled as producer milk with the distributing plant operators as the handlers, rather than as producer milk pooled by cooperatives and other handlers. The milk pooled by distributing plant handlers accounted for approximately 12 percent of the total milk pooled in September 1997 (or approximately 5 percent of the total milk that would have been pooled if all of the milk eligible to be pooled in September 1997 had been pooled). Approximately 7 percent of the Class I producer milk, or approximately 2 percent of the total producer milk, pooled under the Upper Midwest order is pooled by distributing plant operators. The combination of the supply plant shipping percentage and the percentage of milk pooled directly by distributing plant handlers would appear sufficient to meet anticipated Class I needs in the proposed Upper Midwest order. The proposed 10 percent supply plant shipping percentage also should be appropriate to avoid unnecessary and uneconomic shipments.

The proposed rule would allow the market administrator to increase or decrease the required shipping percentage on a marketwide or selected area basis if deemed necessary to assure an adequate supply of milk to pool distributing plants or to prevent uneconomic shipments of milk. If the shipping percentage is increased by the market administrator, shipments made for the purpose of meeting the increased percentage may be made only to pool distributing plants or plants contained in pool distributing plant units.

Groups of two or more supply plants should be allowed to form *systems of supply plants* for the purpose of meeting the shipping requirements, by shipping the same percentage as that required for individual pool supply plants that are not part of such a system. These pool supply plant systems may consist of plants of the same handler, more than one handler, and may contain both proprietary and cooperative handlers. The only requirement affecting an individual plant within the unit is that the plant must be physically located within the marketing area. This restriction is necessary to prevent distant plants from receiving the benefits of participating in the marketwide pool without having an actual association with the market.

Several plants located outside the boundaries of the proposed marketing area currently are included in supply plant units by a ''grandfather clause'' in the Upper Midwest order. The proposed order provides that these plants may continue to be included in a supply plant unit if they so desire as long as they maintain continuous pool plant status.

The Secretary proposes that handlers may form supply plant systems by filing a written request by July 15, listing the plants to be in the system. The system would remain in effect from August 1 through July 31 of the following year. These dates deviate from those proposed for other orders because of the difference in seasonal production variations between this and other orders. The handler or handlers establishing the system may also delete a plant from the system or dissolve the system by submitting a written request to the market administrator. Any plant deleted from a system, or plants that were part of a system that was discontinued, may not be part of a system until the following August.

Provisions that allow handlers to add plants to a system under certain circumstances and to allow systems to reorganize in the event a plant changes ownership or in the event of a business failure by a handler are also incorporated in the proposed order.

A system failing to meet pooling standards would be allowed to drop plants from the system until the system does qualify. The handler responsible for assuring that the system qualifies should notify the market administrator of which plants are to be deleted from the system. If the handler does not notify the market administrator, the market administrator would exclude plants from the system beginning with the plant at the bottom of the list of plants submitted by the handler responsible for qualifying the system, and continuing up the list until the system qualifies.

The provisions for supply plant systems are very similar to the provisions currently contained in both the Chicago Regional and Upper Midwest orders. Unlike the Chicago Regional and the Upper Midwest orders, however, the proposed order does not contain a specific shipping requirement for individual plants within a supply plant system. In the current Chicago Regional order, pool supply plant systems have twice the percentage shipping standard of individual supply plants, with individual plants within the systems required to ship 47,000 pounds or three percent of their producer receipts, whichever is less, in five of the six months of August through January. The current Upper Midwest order requires handlers with supply plants in a supply plant system to ship five percent of each handler's Grade A receipts, including milk diverted by the handler to nonpool plants, during one of

the months of August through December.

This proposed rule does not propose providing for the category of supply plants referred to as reserve supply plants. Reserve supply plants ceased to be included in the Chicago Regional order in 1987, while the Upper Midwest continues to provide for them. With year-round shipping requirements, the unlimited ability of the market administrator to change shipping percentages both in level and in area, and the ability of supply plants to form systems, it is proposed that there is no compelling reason to have two categories of supply plants.

A provision to allow plants to remain qualified for up to two consecutive months due to unavoidable circumstances, such as a natural disaster, fire, breakdown of equipment, or work stoppage is included in this proposed order. The provision is contained in the Chicago Regional order and has worked quite well in giving handlers some administrative relief in the face of certain unavoidable circumstances.

Producer Milk

The definition of producer milk determines which milk will be eligible to participate in the Federal order pool. The proposed order provides that milk received at a pool plant directly from producers or from a cooperative association acting as a handler should be eligible to be producer milk. Milk for which the operator of a pool plant is the handler that is delivered directly from the farm to another pool plant should also be considered producer milk. Under certain circumstances, milk delivered to a nonpool plant may also be considered producer milk. Milk delivered directly from a farm to a nonpool plant may be considered producer milk if at least one day's production is received at a pool plant during the dairy farmer's first month as a producer.

In order to qualify as producer milk the milk pooled by a cooperative association acting as a handler described in § 1030.9(c), the cooperative must deliver at least 10 percent of the milk for which it is the handler pursuant to § 1030.9(c) to pool distributing plants, units of pool distributing plants, plants of producer-handlers, partially regulated distributing plants, or distributing plants fully regulated by other Federal milk orders. The shipments to partially regulated distributing plants are limited to the quantity classified as Class I. Qualifying shipments to distributing plants regulated by other Federal milk orders are limited to the same quantity shipped to pool distributing plants and may not be shipped as agreed-upon Class II, Class III or Class IV utilization. These are the same performance requirements that would apply to supply plants. Likewise, the same performance requirements that apply to supply plants would apply to cooperative associations acting as handlers if the market administrator adjusts the shipping percentages.

The Secretary proposes that there would be no significant differences in the treatment of milk received at pool plants under the proposed order and under the Chicago Regional or Upper Midwest orders. There are, however, several differences relating to diverted milk. The proposed order would allow the operator of a pool plant to divert, or ship milk directly from the farm to another pool plant, the milk of producers for which it is the handler, and account for the milk as producer milk at the shipping plant. Allowing either a proprietary pool plant or a cooperative pool plant to divert milk to another pool plant is consistent with the Chicago Regional order. In the Upper Midwest order, milk that is received at a pool plant and for which a cooperative association is the handler is considered producer milk at the receiving plant. The Upper Midwest order specifies that a proprietary handler may divert milk to another pool plant and that such milk will be considered producer milk of the diverting proprietary handler. The proposed language leaves to the discretion of the cooperative association the option of diverting milk to another pool plant from its own pool plant or delivering the milk to the pool plant in its capacity as a handler of producer milk pursuant to § 1030.9(c).

The proposed Upper Midwest order would require that a new producer or a producer who has broken association with the market have at least one day's production received at a pool plant during the first month in which the producer's milk is reported as producer milk. Currently the Chicago Regional order requires a new producer on the market or a producer who has broken association with the market to have at least one day's production received at the pool plant at which the milk is reported during the first month in which the producer's milk is considered to be producer milk eligible for diversion to a nonpool plant. In addition, at least one day's production of a producer's milk must be received at a pool plant in each of the months of August through January to be eligible for diversion to a nonpool plant. The current Upper Midwest order requires that a new producer or a producer who has broken association with the market be received at a pool plant prior to the milk being diverted to a nonpool plant.

There is little or no justification for forcing producer milk to be received at a pool plant to maintain or prove association with the market. Supply plants and cooperatives would be required to ship a fixed percentage of their total milk supply, not just that portion received at their plants, to the fluid market. Since both cooperatives and proprietary handlers can move milk directly from the farm to the fluid market there is little reason to force milk into a pool plant for regulatory purposes only. Certainly the extra cost to the handler of moving milk for regulatory purposes does not enhance economic efficiency or milk quality and in fact decreases economic efficiency and milk quality to the detriment of the entire market.

The proposed order provides that producer milk be priced in the month in which it is picked up at the farm and at the location of the plant at which the milk is physically unloaded into processing facilities or a storage tank. In the current Chicago Regional order milk is priced where milk is pumped within the confines of a plant. The proposed order would eliminate the pricing of milk where it is pumped from truck to truck and price the milk where it is eventually unloaded into processing facilities or a storage tank.

Location Adjustments and Transportation Credits

To help move milk to the fluid market a transportation credit and a procurement credit to be applied to Class I milk are contained in the proposed Upper Midwest order. The *transportation credit* would be computed by multiplying the hundredweight of Class I milk contained in transfers of bulk fluid milk from pool plants to pool distributing plants by the value obtained by multiplying .0028 times the number of miles between the shipping plant and the receiving plant. The transportation credit should be paid to the shipping handler, since the milk would be priced at the location at which it is first received.

The proposed transportation credit is similar to the transportation credit currently contained in the Chicago Regional order. Both the proposed transportation credit and the current credit, which use the same .0028 rate, are applied to Class I milk only. However, in the current Chicago Regional order the credit is based on 110 percent of the Class I milk received

at the pool distributing plant, rather than on the Class I milk delivered by the shipping handler, as proposed. Since the transportation credit is computed on the basis of milk classified as Class I at the shipping plant, the credit would be paid to the shipping handler.

Unlike the transportation credit, which is based on mileage and paid only on transfers of bulk milk to pool distributing plants, the *procurement credit* would be paid at the rate of 8 cents per hundredweight of Class I milk transferred or diverted by a pool plant to a pool distributing plant. A procurement credit also will be applied to milk received from producers and from cooperative associations acting as handlers pursuant to § 1030.9(c) based on the pro rata share of producer milk delivered to a pool distributing plant and allocated to Class I.

A transportation credit and procurement credit would be incorporated in the proposed order to assist handlers in supplying the Class I market. These transportation and procurement credits, to be paid on Class I milk only in combination with the Class I price surface discussed elsewhere in this proposed rule, will help handlers move milk to the fluid market by distributing the cost of supplying the fluid market to all market participants who share in the marketwide pool. Handlers and producers who supply the Class I market on a regular basis should not be expected to bear the entire cost of supplying the Class I market while handlers and producers who meet only the minimum requirements derive the benefits of marketwide pooling. Incorporation of a transportation credit and procurement credit on Class I milk in the marketwide pool will assure that at least some of the cost of supplying the Class I market is shared among all market participants.

Mideast Order

Many of the provisions of the proposed Mideast order are explained in the ''Identical Provisions'' portion of this proposed rule, and need not be addressed here. The provisions that deviate somewhat from those proposed for other order areas are the provisions dealing with standards for determining the pool status of producers and handlers, and those describing the pricing of milk under a component pricing plan that differs slightly from that common to the other orders with proposed multiple component pricing provisions. For the most part, pooling provisions have less effect on the current Michigan Upper Peninsula market than on the 4 other markets included in this consolidated order because Michigan Upper Peninsula is the only remaining individual handler pool in the current Federal order system. Therefore, pooling provisions are discussed in relation to the 4 principal markets included in the proposed Mideast order.

Pool Plant

The proposed Mideast *pool distributing plant* definition would differ from that contained in most of the other proposed orders to make less likely the full Federal regulation of three State-regulated plants, two in Pennsylvania and one in Virginia, that currently are partially regulated under one or more of these orders. These State-regulated handlers must pay a minimum Class I price for milk used in fluid products, often a higher price than would be applied under Federal order regulation. At the same time, Federal regulation of the Pennsylvania and Virginia-regulated handlers under the consolidated order would reduce producer returns while having little effect on handlers' costs of Class I milk.

Specifically, the percentage of a handler's total route dispositions distributed within the marketing area that would result in the handler being fully regulated under the Mideast order should be 30 percent under this order rather than the 15-percent standard proposed for all but one of the other 10 orders. This level of sales in the marketing area can be compared to the current pooling standards for distributing plants in the Eastern Ohio-Western Pennsylvania and Indiana orders. These orders currently have variable (30–50 percent) pooling standards for the percentage of a distributing plant's receipts distributed on routes, combined with a 10–15 percent standard for receipts distributed within the marketing area. Plants that meet the total dispositions standard at the lower end of the range (35 or 40 percent) and distribute only 10 or 15 percent of their receipts on routes in the marketing area would actually distribute approximately 30 percent of their route dispositions on routes in the marketing area. At the same time, it would be difficult to justify establishing a pooling standard so high that the significant role played in a market by a handler having more than 30 percent of its route disposition in the marketing area would fail to be recognized by inclusion in the marketwide pool.

In addition to specifying the in-area route disposition percentage at 30 percent of total routes, the total and in-area route disposition percentages would be calculated on the basis of the total receipts of bulk fluid milk products physically received at the distributing plant. Currently all four of the larger orders to be included in the consolidated Mideast order include milk diverted from the distributing plant in the total bulk receipts used to compute the route disposition percentages.

To assure continued pool qualification for all of the handlers who currently are associated with the Mideast markets, the *pool supply plant* definition of the consolidated Mideast order would provide for all of the types of supply plants that currently qualify for pooling under the 4 principal orders. The Eastern Ohio-Western Pennsylvania pool plant provision includes a plant operated by a cooperative if the cooperative association delivers to distributing plants at least 35 percent of the milk for which it is the handler during the current month or over the preceding 12 months. The Southern Michigan order includes as pool supply plants: (a) a plant that has been a pool plant for 12 consecutive months and has a marketing agreement with a cooperative association, and (b) a system of supply plants operated by one or more handlers. Order 40 also includes some shipments to other Federal order plants and partially regulated distributing plants, in addition to pool distributing plants, as qualifying shipments by supply plants.

The percentage of receipts as qualifying shipments to distributing plants currently ranges from 30 to 40 percent for these orders, with direct deliveries from farms rather than plant transfers limited to half of the required deliveries under three of the orders. All four of the orders require performance of pooling standards by supply plants for the months of September through February, followed by a ''free ride'' period during which shipping percentages need not be met by supply plants that met the shipping standards during the required period. The Indiana order contains a provision allowing the continued pooling of a plant that fails to meet pooling standards because of circumstances beyond the handler's control.

The proposed shipping standards for pool supply plants are 35 percent for all months, with plants meeting the standard for the months of September through February being allowed to retain their pool status for the immediately following months of March through August. For the purpose of making the 35 percent level of shipping standard less burdensome, up to 90 percent of required shipments should be allowed to be made directly from farms

to distributing plants. The cooperative association plant provided for in the Eastern Ohio-Western Pennsylvania order would be retained, as would the supply plant provisions peculiar to the Southern Michigan order.

Producer Milk

The *producer* and *producer milk* provisions of the orders to be consolidated in the Mideast order are quite similar and differ little from those to be incorporated in the other consolidated orders. The principal difference between some of the individual orders and the consolidated order would be the limit on the percentage of a handler's pooled producer milk that may be diverted to nonpool plants. The Ohio Valley, Indiana and Eastern Ohio-Western Pennsylvania orders all contain 50 percent diversion limits for the months of September through November, January and February and a 60 percent limit for the month of December, with no diversion limit for the months of March through August. The Southern Michigan order contains a 60-percent diversion limit for the months of September through February, with no limit for the months of March through August. In order to assure that all of the milk that has been pooled under these orders continues to qualify for pooling, the diversion limit proposed for the Mideast order is 60 percent for the months of September through February, with no limit for the March through August period. At the same time, the market administrator would be authorized to increase or reduce the diversion limit as needed to maintain orderly marketing and efficient handling of milk in the marketing area.

Multiple Component Pricing

The reporting and payment provisions of the proposed consolidated Mideast order differ somewhat from those of the other consolidated orders that provide for multiple component pricing (MCP) by retaining the current Southern Michigan component pricing plan. The Southern Michigan multiple component pricing plan is very similar to that proposed for the other MCP orders, but prices ''fluid carrier'' instead of ''other solids.'' The Mideast order language is changed accordingly. This difference appears to be favored by market participants in the Mideast, and would result in very little difference in total payments, either by handlers or to producers whose milk is pooled under the differing provisions.

Central Order

Many of the provisions of the proposed Central order are explained in the ''Identical Provisions'' portion of this proposed rule, and need not be addressed here. The provisions that deviate somewhat from those proposed for other order areas are the provisions dealing with standards for determining the pool status of producers and handlers. An effort is made to explain significant differences between the pooling provisions of the 8 individual orders included in this consolidation and those of the consolidated order.

Pool Plant

The proposed Central *pool distributing plant* definition should follow closely the provisions contained in most of the other proposed orders. The proposed provisions would make no difference in the pool status of distributing plants currently pooled under the individual orders.

Specifically, the percentage of a handler's total route disposition distributed within the marketing area that would result in the handler being fully regulated under the Central order should be the 15-percent standard proposed for most of the other 10 orders. The minimum percentage of a pool distributing plant's actual physical receipts of bulk fluid milk products that would have to be distributed on route is proposed to be 25. Currently most of the orders to be included in the consolidated Central order include milk diverted from the distributing plant in the total bulk receipts used to compute the route disposition percentages.

The proposed order would provide that a single handler be allowed to form a unit of distributing plants and Class II manufacturing plants, all of which must be located within the marketing area. The unit would have to meet the requirements for a pool distributing plant, and at least one of the plants in the unit would be required to meet the pool distributing plant requirements as a separate plant. Plants in the unit that do not meet the pool distributing plant definition would be required to have disposition of packaged fluid milk products, packaged fluid cream products, or cottage cheese and other Class II products of at least half of their receipts of Grade A bulk fluid milk products, including milk diverted by the plant operator.

The proposed inclusion of Class II manufacturing plants in units with distributing plants is supported because the manufacturing plants produce products such as packaged fluid cream, sour cream, and cottage cheese that are marketed in conjunction with bottled fluid milk products. In addition, some of these plants produce a limited quantity of fluid milk products. Handlers have argued that the operator of a free-standing manufacturing plant that manufactures these complementary products should be able to pool its milk supply for both (or for several) plants as if all of the products were made in the bottling plant.

The *pool supply plant* definition of the consolidated Central order would contain provisions that assure continued pool qualification for any handlers or milk currently associated with the markets consolidated into the proposed Central market. The Iowa order contains no limit on the amount of direct-shipped milk that can be used to qualify a supply plant, and several of the other orders allow such deliveries to make up a portion of qualifying shipments. The proposed order allows direct-shipped milk to be counted as pool qualifying shipments without limit.

The Greater Kansas City, Nebraska-Western Iowa, Southern Illinois-Eastern Missouri, and Southwest Plains orders contain cooperative balancing plant provisions, allowing cooperative-operated plants to be pooled if the cooperative delivers a given percentage of the milk for which it is the handler to pool distributing plants. The proposed Central order also contains such a provision, including in the pool plant definition a cooperative association plant that supplies at least 35 percent of the milk for which it is the handler to pool distributing plants, either during the current month or for the immediately preceding 12-month period. The deliveries to pool distributing plants may include deliveries directly from the farms of producers for whom the co-op is the handler, as well as transfers from the cooperative's plant.

Cooperative association ''balancing plants'' serve the market as the outlet of last resort. When surplus milk has no other place to go on weekends, holidays, or during months of surplus production, it moves to cooperative association ''balancing plants'' where it is manufactured into storable products. When production decreases, these plants operate at minimal capacity or may be shut down completely. Cooperative members assume the burden and cost of processing surplus milk through such plants.

Most of the Central orders allow a period during which supply plants do not have to meet shipping percentages if they have done so for the months during which milk production levels are

low and demand for fluid milk is high. The Iowa order has reduced shipping standards for such months. The proposed order should include a period during which supply plants that have served the needs of the market when milk supplies are tight are not required to meet shipping standards, but it is reduced from the 5–7 month period existing in the current orders to a 3-month period from May through July.

The percentage of receipts as qualifying shipments to distributing plants currently ranges from 30 to 50 percent for these orders, the Iowa percentage reduced to 20 for the months of December through August.

The proposed shipping standards for pool supply plants under the proposed consolidated order are 35 percent for the months of September through November and January and 25 percent for all other months, with plants meeting the percentage standard for the months of August through April being allowed to retain their pool status for the immediately following months of May through July.

Groups of two or more supply plants should be allowed to form systems of supply plants for the purpose of meeting the shipping requirements, by shipping the same percentage as that required for individual pool supply plants that are not part of such a system. These pool supply plant systems may consist of plants of the same handler or more than one handler, and may contain both proprietary and cooperative handlers. The only requirement affecting each plant within the system is that the plant must be physically located within the marketing area. This restriction is necessary to prevent distant plants from receiving the benefits of participating in the marketwide pool without having an actual association with the market.

As in the other proposed consolidated orders, the market administrator would have the authority to increase or reduce the order's pooling provisions as marketing conditions change for the purpose of assuring that an adequate supply of milk will be available for fluid use, or to assure that the order does not require handlers to undertake uneconomic movements of milk to maintain the pool status of their plants.

Producer Milk

The *producer* and *producer milk* provisions of the orders to be consolidated in the Central order are quite similar to each other and differ little from those to be incorporated in the other consolidated orders. The principal difference between some of the individual orders and the consolidated order would be the limit on the percentage of a handler's pooled producer milk that may be diverted to nonpool plants. The percentage of a handler's milk that may be diverted to nonpool plants varies under the individual orders from 20 percent of milk received at pool plants during some months under the Eastern Colorado order to 70 percent for some months under the Nebraska-Western Iowa and Iowa orders. Most of the orders require each producer's milk to be received at a pool plant at least once each month.

In order to assure that all of the milk that has been pooled under these orders continues to qualify for pooling, the diversion limit proposed for the Central order is 65 percent for the months of September through November and January, and 75 percent for the months of February through April and December. Allowable diversions for the months of May through July would be unlimited. There would be no requirement that each producer's milk be received at pool plants for a minimum number of days per month. At the same time, the market administrator would be authorized to increase or reduce the diversion limit as needed to maintain orderly marketing and efficient handling of milk in the marketing area.

Multiple Component Pricing

The reporting and payment provisions of the proposed consolidated Central order would include those common to other orders with multiple component pricing. These markets have a significant amount of milk used in manufactured products, and component pricing will enable producers to be paid according to the valuable components of their milk.

6d. Western Region

Southwest Order

The proposed consolidated Southwest marketing area is comprised principally of the current Texas and New Mexico-West Texas marketing areas. With regard to milk production and population (consumption), these areas are both in the process of change, but in different ways. Texas has one of the fastest-growing populations in the U.S., and until recently has been able to maintain milk production on a per capita basis. After a significant increase in milk production during the 1988–1994 period, Texas milk production has been declining somewhat, accompanied by the exit of approximately 29 percent of the State's Grade A dairy farmers. If the current trend continues, the Texas market could come to resemble more closely those of the Southeast portion of the U.S., relying significantly on more distant milk supplies to meet the market's Class I and II needs. This scenario currently is true for the southern parts of Texas.

The State of New Mexico has experienced relatively slow population growth, but dramatic increases in milk production—from 1.099 billion pounds in 1988 to an estimated 4.020 billion pounds in 1997. With the declining production in Texas, the New Mexico milkshed will be drawn upon more often to supply Class I and II needs in the Texas demand centers, 500–600 miles distant. Procurement costs would be expected to increase dramatically. In light of these circumstances, proposed provisions in the proposed Southwest order would provide flexibility to handlers supplying the market to prevent inefficient movements of milk and unnecessary costs of operation incurred for the purpose of participating in the marketwide pool.

Prior to enactment of the 1996 Farm Bill, cooperatives operating in the Southwestern Markets had determined that the two milk orders in the region were being operated as one and should be merged. Much discussion took place and proposed order provisions were developed by the principal cooperatives involved. These comments, with numerous others, were considered in the development of this proposed rule for the Southwest marketing area.

Pooling Standards

Most of the pooling standards in the Texas and New Mexico-West Texas orders have been suspended for some time. The rapid expansion of milk production in the region during the late 1980's created a situation in which handlers operating in the region could no longer meet the provisions of the orders while pooling all of their milk supplies.

Pool Distributing Plant. The identical provisions committee recommended that a pool distributing plant distribute as route disposition at least 25% of its bulk fluid milk receipts at the plant, and distribute at least 15% of its total route disposition within the marketing area. One partially regulated plant located in the Texas marketing area would become fully regulated under this provision. The plant has been partially regulated under the Texas order and, periodically, fully regulated under the Chicago Regional order. The proposed percentages for pool distributing plants will cause this plant to become fully regulated under the Southwest order and alleviate the disorderly conditions caused by its shifts between orders. There should be no change in the

plant's costs, since their supply of milk comes from Southwest pool sources.

Pool Supply Plant. The Texas and New Mexico-West Texas orders currently contain a 50% pool supply plant shipping percentage during the Fall months, with a lower percentage or an automatic pooling provision for the remaining months. Currently there are no pool supply plants regulated under either of the Southwest orders, but provision is made for such an operation if it should meet the proposed order's definition. A provision defining cooperative plants located in the marketing area would base pool qualification on total cooperative performance in delivering at least 30 percent of the cooperative's milk supply pooled under this order to pool distributing plants.

Although neither the Texas nor New Mexico-West Texas orders currently have provisions for split-plant operations (plants that have both pool and nonpool portions) or the authority for the Market Administrator to adjust shipping requirements, these provisions are included in the proposed order, as recommended by the identical provisions committee.

Producer Milk

The current Texas and New Mexico-West Texas orders have provisions that require a producer's milk to be received at a pool plant, or touch base, before milk of the producer is eligible to be diverted. Based on comments received, the order would limit diversions of producer milk on the basis of a portion of a handler's total milk supply. At least fifty percent of the milk pooled by a handler should be received at pool plants for the handler's entire milk supply to be pooled. Milk produced by producers located in the marketing area should be eligible for pooling without a particular percentage or number of days' production being required to be received at a pool plant. For producers located outside the marketing area, however, the currently-suspended ''touch-base'' provision of 15% delivered to pool plants during the month (rather than before diversions are allowed), is continued in this proposed rule.

Diversion limits are suggested to be 50% of a handler's total milk supply. The current Texas order allows an amount equal to one-third of the milk delivered to pool plants to be diverted (this provision is currently suspended), while the (currently suspended) New Mexico-West Texas provision allows 50% of a handler's total milk supply to be diverted. The current Texas order provisions base allowable diversions on deliveries to individual pool plants, greatly exacerbating the time and effort required to keep track of milk movements. The total performance standard will allow handlers to meet diversion limits more easily with more efficient movements of milk. In addition, the increased percentage of allowable diversions will assure that all of the producers whose milk would qualify for pooling under either of the two orders being consolidated would continue to meet pooling qualifications.

Transportation Credits for Surplus Milk

The Texas order currently has a market-wide service payment provision that gives credits for hauling surplus milk located in certain zones in Texas to nonpool plants outside the State for use in manufactured products. The provision has not been included in the proposed Southwest order language because of declining production and increasing balancing plant capacity in the affected areas of Texas.

Payment Provision

The Texas order is one of only a few marketing orders that require handlers to submit the full classified value during the month to the market Administration. In turn, the Market Administrator acts as a clearing house and forwards these proceeds on to the respective organizations. Interested persons have expressed an interest in retaining these provisions, not only for the proposed Southwest order, but for all other orders.

The current Texas payment provision was found necessary because of problems encountered in assuring timely payments by pooled handlers. The provision has been in the Texas order since 1979, and the earlier payment problems have been remedied. Such a provision involves a rather large degree of regulatory intervention between milk processors and their suppliers that should be shown to be necessary to correct existing problems. There is no indication that such problems currently exist, or would exist in the absence of the provision. Nearly all of the milk that will be pooled under the consolidated Southwest order is produced by cooperative members and pooled by the cooperatives. These large, business-oriented organizations should be able to assure that they receive full payment for their members' milk in a timely manner.

Arizona-Las Vegas Order

Many of the provisions of the proposed Arizona-Las Vegas order are explained in the ''Identical Provisions'' portion of this proposed rule and need not be addressed here. Those provisions that deviate to some extent from the ''Identical Provisions'' are addressed in this discussion.

Pool Plant

The proposed *pool distributing plant* definition is similar to that contained in most of the other proposed orders. The minimum percentage of a pool distributing plant's physical receipts of bulk fluid milk products that are disposed of as route disposition is proposed to be 25%. The percentage of a handler's total route disposition into the marketing area that would result in a distributing plant becoming fully regulated under the Arizona-Las Vegas order is proposed to be 15%. While this definition differs slightly from the current order language, it provides uniformity with other proposed orders and should result in no additional distributing plants being pooled under the proposed order or any change in the pool status of distributing plants currently pooled.

The proposed *pool supply plant* definition would require a supply plant to ship 50% of its physical receipts of milk from dairy farmers to pool distributing plants during the month in order to be a pool supply plant. This definition would provide for easy, effective order administration and would result in no additional handlers being regulated under the order. There are currently no pool supply plants in the proposed marketing area.

The current Central Arizona order permits a manufacturing plant located in the marketing area that is operated by a cooperative association to be a pool plant, provided that the cooperative ships at least 50% of its member milk to pool plants of other handlers during the current month or the previous 12-month period ending with the current month. This percentage requirement is currently suspended. The proposed order would reduce this percentage to 35%. In conjunction with the market administrator being authorized to increase or reduce the percentage in response to market conditions, the reduced performance standard should enable the continued pooling of producer milk that currently is pooled without resulting in uneconomic handling or disorderly marketing.

The proposed Arizona-Las Vegas order should provide that a single handler be allowed to form a unit of distributing plants and Class II manufacturing plants provided each plant is located within the marketing area. The unit in total would be required to meet the requirements for a pool distributing plant and at least one of the

plants in the unit would be required to meet the pool distributing plant definition individually. This provision would provide uniformity with other federal orders and would not change the status of any plants currently pooled. Class II manufacturing plants are included for unit pooling with distributing plants operated by the same handler because such plants produce products that are marketed in conjunction with fluid milk products.

A provision permitting the market administrator to adjust the percentages specified in the pool plant definition will provide the flexibility to respond in a timely manner to changing marketing conditions without the need for a formal hearing process.

Producer

The proposed order contains a *dairy farmer for other markets* definition. A producer could not be pooled under the proposed Arizona-Las Vegas order unless all of the milk from the same farm was pooled under this or some other federal order or unless such nonpooled milk went to a plant with only Class III or Class IV utilization. This differs slightly from the current definition in the Central Arizona Order. Such a provision is needed in the proposed order to prevent dairy farmers whose milk is regularly used for fluid disposition in other markets from pooling the surplus portion of their production under the proposed order.

Producer Milk

The percentage of a handler's pooled milk that may be diverted to nonpool plants is proposed to be 20% in any month. Currently, diversions under the Central Arizona order are limited to eight days' production of a producer during four months of the year, with unlimited diversions the remainder of the year. The 20% diversion limit would result in the amount of milk eligible for diversion being approximately equivalent to eight days' production and would be easier to administer. The 20% limit year round will assure that pooled milk will have a close association with the market's fluid processing plants.

Component Pricing

The proposed Arizona-Las Vegas order does not provide for multiple component pricing. There are six plants that are expected to be regulated under the proposed order: five proprietary distributing plants, and one manufacturing plant operated by a cooperative association. The Class I utilization for the proposed order is expected to be less than 50 percent, a level that would, in some other orders, be an indication that component pricing would be appropriate. However, the Class I utilization at the five distributing plants is more than 80 percent. With the exception of the one cooperative balancing plant, the handlers to be regulated constitute predominantly a Class I market. They have expressed no interest in component pricing, and the fluid nature of much of the market would not seem to warrant multiple component pricing at this time.

Western Order

Many of the provisions of the proposed Western order are explained in the ''Identical Provisions'' portion of this proposed rule and need not be addressed here. Those provisions that differ from those explained in the ''Identical Provisions,'' or those currently contained in the orders to be consolidated, are discussed below.

Pool Plant

The proposed *pool distributing plant* definition is similar to that contained in most of the other proposed orders. The minimum percentage of a pool distributing plant's physical receipts of bulk fluid milk products that are disposed of as route disposition is proposed to be 25%. The percentage of a handler's total route disposition distributed into the marketing area that would result in a distributing plant becoming fully regulated under the Western order is proposed to be 15%. While this definition differs slightly from the current language of the orders involved in this proposed consolidation, it provides uniformity with other proposed orders and should result in no additional distributing plants being pooled under the proposed order or any change in the pool status of distributing plants currently pooled.

The proposed *pool supply plant* definition would require a supply plant operator to ship 35% of the milk pooled at the supply plant, either by transfer or diversion, to pool distributing plants during the month in order to qualify for pooling. This definition would provide for more efficient order administration and would result in no additional handlers being regulated under the order. The proposed percentage is slightly higher than that contained in the current Southwest Idaho-Eastern Oregon order and slightly lower than that contained in the current Great Basin and Western Colorado orders. This change should result in no milk that is currently associated with any of the three orders losing such association.

The proposed pool supply plant definition includes provision for a March through August period during which a supply plant that has met the order's shipping percentages for the preceding months of September through February to be able to continue to be a pool plant without meeting the shipping standards. As with other proposed orders, the market administrator would have the authority to increase or decrease the order's supply plant pooling standards as marketing conditions change.

The proposed order contains a provision that would permit a manufacturing plant operated by a cooperative association and located in the marketing area to be a pool plant if 35% of the milk for which the cooperative is the handler is received at pool distributing plants during the month or during the immediately preceding 12-month period. This provision is similar to one currently contained in the Great Basin order and in some of the other proposed orders. The proposed order retains the ''bulk tank handler'' provision that is currently in the Southwestern Idaho-Eastern Oregon order, permitting a handler other than a cooperative association to divert milk to nonpool plants for the handler's account based on shipments of milk to pool plants of other handlers.

Although the three current orders proposed to be consolidated do not contain such a provision, the proposed Western order would provide that a single handler be allowed to form a unit of distributing plants and Class II manufacturing plants provided each plant is located within the marketing area, as suggested by the Identical Provisions committee. The unit in total would be required to meet the requirements for a pool distributing plant and at least one of the plants in the unit would be required to meet the pool distributing plant definition individually. This provision would provide uniformity with other federal orders and would not change the status of any plants currently pooled. Class II manufacturing plants are proposed to be included for unit pooling with distributing plants operated by the same handler because such plants produce products that are marketed in conjunction with fluid milk products.

Producer

The proposed order contains a *dairy farmer for other markets* definition. A producer would not qualify for pooling under the proposed Western order unless all of the milk from the same farm was pooled under this or some other federal order or unless such nonpooled milk went to a plant with only Class III or Class IV utilization.

This differs slightly from the current definition in the Great Basin order. Such a provision is proposed for the consolidated order to prevent dairy farmers whose milk is regularly used for fluid disposition in other markets from pooling the surplus portion of their production on the proposed order.

Producer Milk

The percentage of a handler's pooled milk that may be diverted to nonpool plants is proposed to be 80% in any month. This is identical to the percentage currently included in the Southwestern Idaho-Eastern Oregon order and is only slightly higher than that for the present Great Basin order, which is 75% for cooperatives and 70% for proprietary handlers. The 80% limit on movements of pooled milk to nonpool plants should permit all milk associated with the market that is not needed at pool plants during the month to be pooled and priced under the order. These percentages are higher than those contained in the Western Colorado order, but should not have the effect of encouraging additional amounts of unneeded milk to be pooled in that area.

Reports of Receipts and Utilization and Payroll Reports

The proposed order requires pool handlers to file a ''report of receipts and utilization'' on or before the seventh day after the end of the month. This is identical to the current reporting date in the Western Colorado and Great Basin orders but two days earlier than the same provision in the Southwestern Idaho-Eastern Oregon order. Almost all handlers currently file reports by FAX or some other form of electronic data transfer, which eliminates delays due to mail handling. A seven-day reporting period should allow adequate time for handlers to prepare reports and will allow the computation and release of producer price information to occur on or before the 12th day after the end of the month.

The date on which the report of payments to producers is proposed to be due to the market administrator under the Western order is on or before the 21st day after the end of the month. This is the same date as that under the Great Basin order, but one day earlier than under the Southwestern Idaho-Eastern Oregon order and two days earlier than the Western Colorado order. The earlier reporting date and announcement of producer prices should assure that an earlier payroll reporting date would not be burdensome.

Multiple Component Pricing

Both the Great Basin order and the Southwestern Idaho-Eastern Oregon order currently have multiple component pricing based on protein; the Western Colorado order does not. The multiple component pricing provisions of the proposed Western order should be the same as those for other proposed orders that provide for multiple component pricing based on protein. The proposed Western order has a significant amount of milk used in manufactured products, especially cheese, and component pricing will enable producers to be paid according to the value of the components of their milk. However, the somatic cell adjustment included in most of the rest of the orders for which component pricing is proposed is not warranted by marketing conditions under the Western order, and such an adjustment is not included.

Payments to and From the Producer Settlement Fund

Payments to the producer settlement fund under the proposed order are due on or before the 14th day after the end of the month. This is two days after the announcement of uniform producer prices, which is an identical time period to that which exists in the three current orders proposed to be consolidated.

Payments from the producer settlement fund under the proposed order would be due on or before the 15th day after the end of the month. This is the same date as under the current Great Basin order, three days earlier than under the Southwestern Idaho-Eastern Oregon order, and one day later than the Western Colorado order. This payment date should be practicable given the use of current banking and transmission techniques.

Payments to Producers and Cooperative Associations

Under the proposed order, partial payments would be due from handlers to producers who are not members of cooperative associations on or before the 25th day of the month in an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received from such producers during the first 15 days of the month. Final payments would be due on or before the 17th day after the end of the month.

Partial payments to cooperative associations would be due on or before the 24th day of the month at the same rate as above, with final payments due on or before the 16th day after the end of the month. These final payment dates represent very little or no change from the orders' present payment dates. The proposed partial payment dates are earlier than those required under the current orders, but are very close to those suggested by the Identical Provisions committee, and compliance should present no hardship to handlers who would already have had the use of the producers' milk for 9 to 23 days.

Pacific Northwest Order

Many of the provisions of the proposed Pacific Northwest order are explained in the ''Identical Provisions'' portion of this proposed rule, and need not be addressed here. The provisions that deviate somewhat from those proposed for other order areas are the provisions dealing with standards for determining the pool status of producers and handlers, the definition of producer-handlers, the factors upon which payments to producers are calculated, and reporting and payment dates. Because this order is not proposed to be consolidated with any other orders, there is little reason for changing the substance of many of the provisions that are not included in the General Provisions.

Pool Distributing Plant

The pool distributing plant provisions of the proposed Pacific Northwest Order would be changed from the current definition to one that more closely resembles the definition suggested in the identical provisions report. Rather than basing the identification of a pool distributing plant on only 10 percent of the plant's receipts as in-area route dispositions, the order should specify that such a plant have at least 25 percent of its physical receipts distributed as route disposition, and at least 15 percent of its route disposition distributed within the marketing area.

It is not expected that the proposed pooling standard will affect the pool status of any plant that currently does or does not meet the pooling standard of the Pacific Northwest order. In addition, it would remedy a provision that could result in fully regulating a plant that has minimal association with the marketing area.

Pool Supply Plant

For the most part, the current pool supply plant definition of the Pacific Northwest order is appropriate to the marketing conditions in the area. However, the provision that currently *requires* a handler to include producer milk moved directly to pool distributing plants in the shipments on which pool plant performance is calculated would be changed to *allow* the handler to

include such movements if the handler wants to qualify its plant for pooling. A plant operator who receives milk at a plant only for manufacturing use also would be able to supply producer milk directly to distributing plants without a requirement that the manufacturing plant be a supply plant.

The Pacific Northwest order's current pool supply plant performance standard of 20 percent of milk receipts shipped to distributing plants should continue to be appropriate for this market. The current March through August period during which supply plants do not have to ship the minimum percentage to distributing plants if they have done so during the previous September through February period would continue to be included in the pool supply plant definition.

As in the other proposed consolidated orders, the market administrator is proposed to have the authority to increase or decrease the order's pooling provisions as marketing conditions change for the purpose of assuring that an adequate supply of milk will be available for fluid use, or to assure that the order does not require handlers to undertake uneconomic movements of milk to maintain: (1) the pool status of their plants, or (2) the pooling of producers who have historically been associated with the market and who help serve Class I needs.

Nonpool Plant

The current definition and exemption for milk produced and processed by state institutions, as contained in the present order's producer-handler definition, would be expanded and moved to be included in the ''Nonpool plant'' definition contained in the General Provisions. Such entities, along with colleges and universities and charitable organizations, would not be subject to the orders' pricing and pooling provisions as long as they have no sales in commercial channels.

The present Pacific Northwest order provisions allow a state institution to avoid any regulation on the portion of its milk that is used only within the institution, and apply some pricing regulation to that portion that is distributed in commercial channels. In some respects, this arrangement is similar to the situation of partially regulated distributing plants. However, partially regulated distributing plant operators, to avoid obligations under Federal orders, must show that they pay the dairy farmers who ship milk to them at a rate at least commensurate with that paid to producers whose milk is pooled under the order. In any case, they must procure a milk supply in the competitive market. State institutions may have any number of cost advantages over regulated handlers in the production and processing of milk, such as not having to pay a minimum wage and not having to pay property taxes. It would be unjust to allow such institutions to compete with fully regulated handlers in regular commercial channels as if the playing field were level. Therefore, state and other institutions that compete with regulated handlers in regular commercial channels, such as bids for school milk programs, would also be fully regulated.

Producer-Handler

The current Pacific Northwest producer-handler provisions should remain essentially untouched. Some of the ''Identical Provisions'' features of the producer-handler definition, such as the 150,000-pound thresholds for route dispositions, own farm production, and receipts from pool plants; and the ability to request to operate as both a pool plant and a producer, would be adopted. The rest of the current producer-handler provisions would remain in effect for administrative purposes.

Producer-handlers represent a much larger portion of the Class I dispositions in the Pacific Northwest marketing area than in most other Federal order areas. In many marketing areas, producer-handlers supply 1 percent or less of the Class I sales. In the Pacific Northwest area, however, they furnish almost 10 percent of the market's Class I dispositions. The larger average size of the dairy farmers in the western United States makes more likely the existence of a producer-handler that is a significant factor in the market.

The current order's producer-handler provisions are based on the history of producer-handler operations in this marketing area, reflecting difficulties encountered in order administration, attempts to circumvent order provisions, and court challenges.

In addition to the current order provisions, the producer-handler definition would also contain language clarifying that milk received by the producer-handler at a location other than the producer-handler's processing plant for distribution on routes will be included as a receipt from another handler.

Reserve Supply Unit

The Pacific Northwest order would continue to provide for a cooperative reserve supply unit. The existing provision has many similarities to a reserve supply plant, which is not provided in this order but which is included in several of the proposed consolidated orders.

Under the terms of the present provision, the cooperative members of the reserve supply unit must be located near a pool distributing plant, as a reserve supply plant must be located in the marketing area. Both the reserve supply unit and the reserve supply plant provisions require that the plant or unit operator request prior approval of the market administrator to initiate and cancel their status, both require long-term association with the market, and both provide substantial penalties for failing to meet all required conditions. Although the cooperative unit does not have monthly qualification requirements, it is subject to a call by the market administrator after the market administrator's investigation of the need for supplemental supplies of milk. Because of the current existence of this provision, based on the need shown at a public hearing, and its similarities to a pooling mechanism suggested for other orders, provision for the cooperative reserve supply unit would continue to be included in the proposed Pacific Northwest order.

Producer and Producer Milk

The proposed Pacific Northwest order would contain a ''dairy farmer for other markets'' provision for each month of the year. The large volume of milk production in California and California's quota system give dairy farmers an incentive to pool production in a volume equal to their quota pounds on the California order, and then attempt to share in the Pacific Northwest Class I market with their over-quota production, for which returns under the California order are much less. At the same time, none of the California Class I returns would be shared with Pacific Northwest producers. Similarly, the reserve supplies for the State-regulated markets of Western Nevada and Montana should not be allowed to share in returns from the Pacific Northwest order's higher classes of utilization while enjoying the benefits of the State orders' Class I returns.

The current provisions of the Pacific Northwest order do not require that a producer's milk be received at pool plants for the producer's first pooled delivery on the market or for any specified period. If a handler meets its overall performance requirements for supplying milk to the market, it should make no difference which individual producer's milk is actually delivered to pool plants as long as the milk of each

producer participating in the pool is Grade A and available to the market if and when needed. It is expensive, inefficient, and unnecessary to move milk from areas close to nonpool manufacturing plants to bottling plants in the city markets when that milk is not needed for bottling. For the above reasons and the physical fact that there are often great distances and mountainous terrain between plants and farms in the more sparsely populated West, no ''touch base'' requirements should be included.

This order and other western orders have allowed producers to pool milk on more than one order during the same month. Because of the locations of a number of dairy farmers, their milk may be used by pool plants regulated under more than one order in a single month. These producers also represent a reserve supply for more than one market. Large, multi-market handlers should be given the flexibility to market and transport their milk to fulfill the needs of their customers in the most efficient way possible.

The small degree of change from the current provisions necessary in the pooling provisions of the proposed Pacific Northwest results in very little change proposed for the order's diversion limits. The limit of 80% of the handler's supply of producer milk should remain unchanged, with the months during which the percentage is effective changed from September through April to September through February. These months will correspond to the months during which supply plants must ship 20 percent of their receipts to pool distributing plants. There would be no limit on diversions of producer milk for the months of March through August. These delivery standards have not been overly restrictive nor associated unneeded supplies with the market and should be allowed to continue without change.

Payments to Producers and Cooperative Associations

Although the current Pacific Northwest order contains a multiple component pricing plan very like that proposed to be standard for the consolidated orders, it does not now and would not under this reform process contain a somatic cell adjustment provision. The level of somatic cells in the western U.S. is generally lower than in the east, with an overall average of approximately 250,000 instead of 350,000. This lower somatic cell count would seem to reduce the need for such a provision. Historically, the principal argument for a somatic cell adjuster has been the negative effect of somatic cells on the cheese yields. Although cheese manufacturing in the Northwest is increasing, most cheese manufacturing is done by cooperative associations who have expressed the opinion that an adjustment for somatic cells is a quality issue best dealt with internally. The somatic cell adjustments in the proposed consolidated orders are not incorporated in the proposed Pacific Northwest order.

Announcement of Producer Prices

The dates on which handler reports, market administrator's announcement of producer prices, and payment to producers would remain unchanged from those of the current order.

8. Miscellaneous and Administrative

(a) Consolidation of the Marketing Service, Administrative Expense, and Producer-Settlement Funds

To complete the proposed consolidation of the present 31 Federal orders effectively and equitably, the reserve balances in the marketing service, administrative expense, and producer-settlement funds that have resulted under the individual orders would be combined.

The balances in these three funds should be combined on the same basis that the marketing areas are consolidated into regional orders herein. For instance, the Texas and New Mexico-West Texas marketing areas are merged into a new regional Southwest order. Accordingly, the reserve balances in the marketing service, administrative expense and producer-settlement funds of the two individual orders likewise should be combined into three separate funds established under the consolidated Southwest order.

The marketing areas of the proposed 11 consolidated orders essentially represent the territory covered by the 31 individual orders plus the territory included in the former Tennessee Valley marketing area. Because of this, the handlers and producers servicing the milk needs of the individual markets will continue to furnish the milk needs of the applicable regional market for the most part.

In that regard, the reserve balances in the funds that have resulted under the 31 individual orders should be combined on a marketing area basis into the appropriate separate fund established for each of the 11 regional orders. Any liabilities of such funds under the individual orders would be paid from the appropriate newly established fund of the applicable regional order. Similarly, obligations that are due the separate funds under the individual orders would be paid to the appropriate combined fund of the applicable consolidated order.

In most cases, the entire marketing area of an order or orders is included in the proposed consolidated marketing area of one of the 11 regional orders. Three present marketing areas would be split between two consolidated orders. One county of the present Louisville-Lexington-Evansville (Order 46) marketing area would be included in the Southeast order, and the rest of the territory in the Order 46 marketing area would be included under the Appalachian order. Even though one Order 46 county is included in the proposed Southeast order, all of the present Order 46 producers and handlers are expected to be covered under the proposed consolidated Appalachian order. Accordingly, the balances in the Order 46 marketing service, administrative expense, and producer settlement funds should be consolidated into the three separate funds established for the consolidated Appalachian market.

Different regulatory situations, however, will occur in the other two instances where a current marketing area is divided between two proposed consolidated orders. One county of the current Great Basin (Order 139) marketing area would be included in the consolidated Arizona-Las Vegas order and the rest of the Order 139 marketing area would be included in the consolidated marketing area for the West. Some of the present Order 139 producers and handlers would become regulated under the Arizona-Las Vegas consolidated order and others would become regulated under the regional order for the West. Similarly, two zones of the Michigan Upper Peninsula (Order 44) marketing area would be included in the consolidated Upper Midwest marketing area and the other zone of the Order 44 marketing area would be included in the marketing area for the Mideast regional order. Accordingly, any reserve balances in the marketing service, administrative expense and producer-settlement funds of these two individual orders should be divided equitably among the applicable consolidated orders.

The money accumulated in the marketing service funds of the individual orders is that which has been paid by producers for whom the market administrators are performing such services. Since the marketing areas of the proposed 11 regional orders encompass the territory covered by the individual orders, for the most part, the producers who have contributed to the

marketing service funds of the individual orders are expected to continue supplying milk for the consolidated orders. Since marketing service programs will be continued for these producers under the regional orders, it would be appropriate to combine the reserve balances in the marketing service funds of the order or orders that are represented in the consolidation of each of the proposed 11 regional orders.

When the proposed consolidated marketing area includes the marketing area of one or more individual orders, any remaining balance in the marketing service fund of the individual order or orders should be combined in the marketing service fund established for the applicable consolidated order. If a current marketing area is split between two consolidated markets and the regulatory status of producers and handlers is divided between the two regional orders, as is the case with the Michigan Upper Peninsula and Great Basin orders, any balance in the marketing service fund of the individual order should be prorated between the two consolidated orders on the basis of the amount of milk subject to the marketing service deduction that will be covered by each respective regional order (using producer deliveries in the last month the individual orders are in effect but assuming that the marketing areas had been consolidated).

The money paid to the administrative expense fund is each handler's proportionate share of the cost of administering the order. For the most part, handlers currently regulated under the individual orders will continue to be regulated under the proposed consolidated orders. In view of this, it would be an unnecessary administrative and financial burden to allocate the reserve funds of the individual orders back to handlers and then accumulate an adequate reserve for each of the consolidated orders. It would be as equitable and more efficient to combine the remaining administrative monies accumulated under the individual orders in the same manner as the marketing areas are proposed to be combined.

For the orders where the proposed consolidated marketing area includes the regulated territory of one or more of the individual orders, any remaining balance in the administrative expense fund of the individual order or orders would be combined into the administrative expense fund established for the applicable consolidated order. In the situations where the current individual marketing area is split and the regulatory status of producers and handlers is divided (as in the case of the Michigan Upper Peninsula and Great Basin orders) between two consolidated marketing areas, the remaining balance in the administrative expense fund should be prorated between the two regional orders on the basis of the amount of milk that would be pooled and priced under each respective consolidated order (using producer milk deliveries during the last month the individual orders are in effect but assuming that the orders had been consolidated).

Likewise, the producer-settlement fund balances of the individual orders should be combined. They should be combined on the same basis as the marketing areas are consolidated herein. This will enable the producer-settlement funds of the consolidated orders to continue without interruption.

The producers currently supplying the individual markets are expected to supply milk for the proposed consolidated markets. Thus, monetary balances in the producer-settlement funds of the individual orders now would be reflected in the pay prices of the producers who will benefit from the applicable consolidated orders. The combined fund for each proposed consolidated order also would serve as a contingency fund from which money would be available to meet obligations (resulting from audit adjustments and otherwise) occurring under the individual orders.

The same procedure used in combining the remaining balances in the marketing service and administrative expense funds of the individual orders should be followed in combining the producer-settlement fund balances when the individual orders are consolidated. For orders where the consolidated marketing area includes the marketing area of one or more orders, any remaining balance in the producer-settlement fund of the individual order or orders would be combined into the producer-settlement fund established for the applicable consolidated order. In the two situations (Michigan Upper Peninsula and Great Basin) where the marketing area of a current order is split between two proposed consolidated orders and some of the individual market's producers and handlers would be regulated under one consolidated order and others would be regulated under another consolidated order, the balance in the producer-settlement fund should be divided equitably between the two consolidated orders. Since the Michigan Upper Peninsula order is an individual-handler pool market, no producer-settlement fund is provided. The remaining balance in the producer-settlement fund of the Great Basin order should be prorated between the consolidated Arizona-Las Vegas order and the regional order for the West on the basis of the amount of milk that will be pooled and priced under each respective proposed consolidated order (using producer milk deliveries during the last month the individual orders are in effect but assuming that the orders had been consolidated).

(b) Consolidation of the Transportation Credit Balancing Funds

To complete the consolidation process, the reserve balances in the transportation credit balancing funds that are in effect now under three Southeast orders (Carolina, Order 5; Southeast, Order 7; and Louisville-Lexington-Evansville, Order 46) should be consolidated also. These funds should be combined on a marketing area basis. In that regard, the reserve balances in the transportation credit balancing funds of the Carolina and Louisville-Lexington-Evansville orders should be consolidated into a newly established transportation credit balancing fund for the Appalachian order, which also includes the current marketing areas of these two orders with the exception of one county. Similarly, the reserve balance in the transportation credit balancing fund of the present Southeast order should be transferred to the consolidated Southeast order, which includes all of the marketing area of the present Southeast order. These procedures will enable the transportation credits to continue without interruption under these two proposed consolidated orders.

(c) Proposed General Findings

The proposed findings and determinations hereinafter set forth supplement those that were made when the aforesaid 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.

(1) 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;

(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 each of the aforesaid 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;

(3) 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 the marketing agreements;

(4) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1000.85 of the General Provisions.

Proposed Marketing Agreements and Order Amending the Orders

The proposed marketing agreements are not included in this proposed rule because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders regulating the handling of milk in the respective marketing areas of these orders is proposed as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Chapter X

Milk marketing orders.

For the reasons set forth in the preamble and under the authority of 7 U.S.C. 601–674, Title 7, chapter X, CFR parts 1002, 1004, 1012, 1013, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1135, 1137, 1138, and 1139 are proposed to be removed, and Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131, and 1134 are proposed to be revised as follows:

PART 1000—GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS

Subpart A—Scope and Purpose

Sec.
1000.1 Scope and purpose of Part 1000.

Subpart B—Definitions

1000.2 General definitions.
1000.3 Route disposition.
1000.4 Plant.
1000.5 Distributing plant.
1000.6 Supply plant.
1000.8 Nonpool plant.
1000.9 Handler.
1000.14 Other source milk.
1000.15 Fluid milk product.
1000.16 Fluid cream product.
1000.17 [Reserved]
1000.18 Cooperative association.
1000.19 Commercial food processing establishment.

Subpart C—Rules of Practice and Procedure Governing Market Administrators

1000.25 Market administrator.

Subpart D—Rules Governing Order Provisions

1000.26 Continuity and separability of provisions.

Subpart E—Rules of Practice and Procedure Governing Handlers

1000.27 Handler responsibility for records and facilities.
1000.28 Termination of obligations.

Subpart F—Classification of Milk

1000.40 Classes of utilization.
1000.41 [Reserved]
1000.42 Classification of transfers and diversions.
1000.43 General classification rules.
1000.44 Classification of producer milk.
1000.45 Market administrator's reports and announcements concerning classification.

Subpart G—Class Prices

1000.50 Class prices and component prices.
1000.51 [Reserved]
1000.52 Adjusted Class I differentials.
1000.53 Announcement of class prices and component prices.
1000.54 Equivalent price.

Subpart H—Payments for Milk

1000.70 Producer-settlement fund.
1000.71 Payments to the producer-settlement fund.
1000.72 Payments from the producer-settlement fund.
1000.76 Payments by a handler operating a partially regulated distributing plant.
1000.77 Adjustment of accounts.
1000.78 Charges on overdue accounts.

Subpart I—Administrative Assessment and Marketing Service Deduction

1000.85 Assessment for order administration.
1000.86 Deduction for marketing services.

Subpart J—Miscellaneous Regulations

1000.90 Dates.
1000.91–1000.92 [Reserved]
1000.93 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 601–674.

Subpart A—Scope and Purpose

§ 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order in 7 CFR, chapter X except as specifically defined otherwise, or modified, or otherwise provided, in an individual order in 7 CFR, chapter X.

Subpart B—Definitions

§ 1000.2 General definitions.

(a) *Act* means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

(b) *Order* means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to Section 8c of the Act as a Federal milk marketing order (as amended).

(c) *Department* means the U.S. Department of Agriculture.

(d) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Person* means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Route disposition.

Route disposition means a delivery to a retail or wholesale outlet (except a plant), either directly or through any distribution facility (including disposition from a plant store, vendor, or vending machine) of a fluid milk product in consumer-type packages or dispenser units classified as Class I milk.

§ 1000.4 Plant.

(a) Except as provided in paragraph (b) of this section, *plant* means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged, including a facility described in paragraph (b)(2) of this section if the facility receives the milk of more than one dairy farmer.

(b) Plant shall not include:

(1) A separate building without stationary storage tanks that is used only

as a reload point for transferring bulk milk from one tank truck to another or a separate building used only as a distribution point for storing packaged fluid milk products in transit for route disposition; or

(2) An on-farm facility operated as part of a single dairy farm entity for the separation of cream and skim or the removal of water from milk.

§ 1000.5 Distributing plant.

Distributing plant means a plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are processed or packaged and from which there is route disposition.

§ 1000.6 Supply plant.

Supply plant means a plant, other than a distributing plant, that is approved by a duly constituted regulatory agency for the handling of Grade A milk and at which fluid milk products are received or from which fluid milk products are transferred or diverted.

§ 1000.8 Nonpool plant.

Nonpool plant means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) *A plant fully regulated under another Federal order* means a plant that is fully subject to the pricing and pooling provisions of another Federal order.

(b) *Producer-handler plant* means a plant operated by a producer-handler as defined under any Federal order.

(c) *Partially regulated distributing plant* means a nonpool plant that is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant, from which there is route disposition in the marketing area during the month.

(d) *Unregulated supply plant* means a supply plant that does not qualify as a pool supply plant and is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant.

(e) *An exempt plant* means a plant described in this paragraph that is exempt from the pricing and pooling provisions of any order provided that the operator of the plant files reports as prescribed by the market administrator to enable determination of the handler's exempt status:

(1) A plant that is operated by a governmental agency that has no route disposition in commercial channels;

(2) A plant that is operated by a duly accredited college or university disposing of fluid milk products only through the operation of its own campus with no route disposition in commercial channels;

(3) A plant from which the total route disposition is for individuals or institutions for charitable purposes without remuneration; or

(4) A plant that has route disposition of 150,000 pounds or less during the month.

§ 1000.9 Handler.

Handler means:

(a) Any person who operates a pool plant or a nonpool plant.

(b) Any person who receives packaged fluid milk products from a plant for resale and distribution to retail or wholesale outlets, any person who as a broker negotiates a purchase or sale of fluid milk products or fluid cream products from or to any pool or nonpool plant, and any person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant. Persons who qualify as handlers only under this paragraph under any Federal milk order in 7 CFR, chapter X are not subject to the payment provisions of §§ ____.70, ____.71, ____.72, ____.73, ____.76, and ____.85 of that order.

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer and delivers to pool plants or diverts to nonpool plants pursuant to § __.13 of the order. The operator of a pool plant receiving milk from a cooperative association may be the handler for such milk if both parties notify the market administrator of this agreement prior to the time that the milk is delivered to the pool plant and the plant operator purchases the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples.

§ 1000.14 Other source milk.

Other source milk means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1000.9(c), or pool plants;

(b) Products (other than fluid milk products, fluid cream products, and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Receipts of any milk product (other than a fluid milk product or a fluid cream product) for which the handler fails to establish a disposition.

§ 1000.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, *fluid milk product* means any milk products in fluid or frozen form containing less than 9 percent butterfat that are intended to be used as beverages. Such products include, but are not limited to: Milk, fat-free milk, lowfat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50 percent total milk solids), or reconstituted.

(b) The term fluid milk product shall not include:

(1) Plain or sweetened evaporated milk/skim milk, sweetened condensed milk/skim milk, formulas especially prepared for infant feeding or meal replacement, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk equivalent in any modified product specified in paragraph (a) of this section that is greater than an equal volume of an unmodified product of the same nature and butterfat content.

§ 1000.16 Fluid cream product.

Fluid cream product means cream (other than plastic cream or frozen cream), including sterilized cream, or a mixture of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1000.17 [Reserved]

§ 1000.18 Cooperative association.

Cooperative association means any cooperative marketing association of producers which the Secretary determines is qualified under the provisions of the Capper-Volstead Act, has full authority in the sale of milk of its members, and is engaged in marketing milk or milk products for its members. A federation of two or more cooperatives incorporated under the laws of any state will be considered a cooperative association under any Federal milk order if all member cooperatives meet the requirements of this section.

§ 1000.19 Commercial food processing establishment.

Commercial food processing establishment means any facility, other than a milk plant, to which fluid milk products and fluid cream products are

disposed of, or producer milk is diverted, that uses such receipts as ingredients in food products and has no other disposition of fluid milk products other than those received in consumer-type packages (1 gallon or less). Producer milk diverted to commercial food processing establishments shall be subject to the same provisions relating to diversions to plants, including, but not limited to, §§ ____.13 and ____.52 of each Federal milk order in 7 CFR, chapter X.

Subpart C—Rules of Practice and Procedure Governing Market Administrators

§ 1000.25 Market administrator.

(a) *Designation*. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) *Powers*. The market administrator shall have the following powers with respect to each order under his/her administration:

(1) Administer the order in accordance with its terms and provisions;

(2) Maintain funds outside of the United States Department of the Treasury for the purpose of administering the order;

(3) Make rules and regulations to effectuate the terms and provisions of the order;

(4) Receive, investigate, and report complaints of violations to the Secretary; and

(5) Recommend amendments to the Secretary.

(c) *Duties*. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his/her administration, including, but not limited to, the following:

(1) Employ and fix the compensation of persons necessary to enable him/her to exercise the powers and perform the duties of the office;

(2) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of the office and in the performance of the duties of the office, including the market administrator's compensation;

(3) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary, surrender the records to a successor or such other person as the Secretary may designate;

(4) Furnish information and reports requested by the Secretary and submit office records for examination by the Secretary;

(5) Announce publicly at his/her discretion, unless otherwise directed by the Secretary, by such means as he/she deems appropriate, the name of any handler who, after the date upon which the handler is required to perform such act, has not:

(i) Made reports required by the order;

(ii) Made payments required by the order; or

(iii) Made available records and facilities as required pursuant to § 1000.27;

(6) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities, and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect;

(7) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(8) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

Subpart D—Rules Governing Order Provisions

§ 1000.26 Continuity and separability of provisions.

(a) *Effective time*. The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination*. The Secretary shall suspend or terminate any or all of the provisions of the order whenever he/she finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) *Continuing obligations*. If upon the suspension or termination of any or all of the provisions of the order there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) *Liquidation*. (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his/her possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) *Separability of provisions*. If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

Subpart E—Rules of Practice and Procedure Governing Handlers

§ 1000.27 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of its operations and make such records and its facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any

skim milk and butterfat required to be reported by such handler for which adequate records are not available shall be considered as used in the highest-priced class.

(a) *Records to be maintained.* (1) Each handler shall maintain records of its operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) *Availability of records and facilities.* Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his/her duties.

(c) *Retention of records.* All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.28 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money:

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 *et seq.*) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims is due under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

Subpart F—Classification of Milk

§ 1000.40 Classes of utilization.

Except as provided in § 1000.42, all skim milk and butterfat required to be reported pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X shall be classified as follows:

(a) *Class I milk* shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except as otherwise provided in this section;

(2) Used to produce fluid milk products modifed in volume by the addition of nonmilk ingredients and/or previously processed and priced skim milk and butterfat, including milkshake and milkshake drinks sold in containers less than one half-gallon;

(3) In packaged fluid milk products in inventory at the end of the month, exclusive of skim milk and butterfat accounted for in paragraph (a)(2) of this section; and

(4) In shrinkage assigned pursuant to § 1000.43(b).

(b) *Class II milk* shall be all skim milk and butterfat:

(1) In fluid milk products in containers larger than 1 gallon and fluid cream products disposed of or diverted to a commercial food processing establishment if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I;

(2) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, cream cheese and any similar soft, high-moisture cheese resembling cottage cheese in form or use;

(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in half-gallon containers or larger and intended to be used in soft or semi-solid form;

(iii) Aerated cream, frozen cream, sour cream, sour half-and-half, sour cream

mixtures containing nonmilk items, yogurt, and any other semi-solid product resembling a Class II product;

(iv) Custards, puddings, pancake mixes, coatings, batter, and similar products;

(v) Buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2% of the total solids, provided that the product is labeled to indicate the food starch content;

(vi) Formulas especially prepared for infant feeding or meal replacement;

(vii) Candy, soup, bakery products and other prepared foods which are processed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products;

(viii) A fluid cream product or any product containing artificial fat or fat substitutes that resembles a fluid cream product, except as otherwise provided in paragraph (c) of this section;

(ix) Any product not otherwise specified in this section; and

(3) In shrinkage assigned pursuant to § 1000.43(b).

(c) *Class III milk* shall be all skim milk and butterfat:

(1) Used to produce:

(i) Spreadable cheeses (other than cream cheese) and hard cheese of types that may be shredded, grated, or crumbled and that are not included in paragraph (b)(2)(i) of this section;

(ii) Plastic cream, anhydrous milkfat, and butteroil; and

(iii) Evaporated or sweetened condensed milk/skim milk in a consumer-type package;

(2) In inventory at the end of the month of fluid milk products and fluid cream products in bulk form;

(3) In any products classified pursuant to paragraphs (a) or (b) of this section that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond the handler's control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(4) In the skim milk equivalent of nonfat milk solids used to modify a fluid milk product that has not been accounted for in Class I; and

(5) In shrinkage assigned pursuant to § 1000.43(b).

(d) *Class IV milk* shall be all skim milk and butterfat:

(1) Used to produce:

(i) Butter; and

(ii) Any milk product in dried form; and

(2) In shrinkage assigned pursuant to § 1000.43(b).

§ 1000.41 [Reserved]

§ 1000.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification shall be subject to the following conditions:

(1) The skim milk and butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the receiving plant after the computations pursuant to § 1000.44(a)(9) and the corresponding step of § 1000.44(b);

(2) If the transferring plant received during the month other source milk to be allocated pursuant to § 1000.44(a)(3) or the corresponding step of § 1000.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferring handler received during the month other source milk to be allocated pursuant to § 1000.44(a)(8) or (9) or the corresponding steps of § 1000.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the receiving plant.

(b) *Transfers and diversions to a plant regulated under another Federal order.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to a plant regulated under another Federal order shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from a plant regulated under another Federal order of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1) or (2) of this section:

(1) As Class I milk, if transferred as packaged fluid milk products;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated under the other order:

(i) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as other than Class I to the extent that such utilization is available for such classification pursuant to the allocation provisions of the other order;

(ii) If diverted, the diverting handler must request a classification other than Class I. If the plant receiving the diverted milk does not have sufficient utilization available for the requested classification and some of the diverted milk is consequently assigned to Class I use, the diverting handler shall be given the option of designating the entire load of diverted milk as producer milk at the plant physically receiving the milk. Alternatively, if the diverting handler so chooses, it may designate which dairy farmers whose milk was diverted during the month will be designated as producers under the order physically receiving the milk. If the diverting handler declines to accept either of these options, the market administrator will prorate the portion of diverted milk in excess of Class II, III, and IV use among all the dairy farmers whose milk was received from the diverting handler on the last day of the month, then the second-to-last day, and continuing in that fashion until the excess diverted milk has been assigned as producer milk under the receiving order; and

(iii) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be Class I, subject to adjustment when such information is available.

(c) *Transfers and diversions to producer-handlers and to exempt plants.* Skim milk or butterfat that is transferred or diverted from a pool plant to a producer-handler under any Federal order in 7 CFR, chapter X or to an exempt plant shall be classified:

(1) As Class I milk if transferred or diverted to a producer-handler;

(2) As Class I milk if transferred to an exempt plant in the form of a packaged fluid milk product; and

(3) In accordance with the utilization assigned to it by the market administrator if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product to an exempt plant. For this purpose, the receiving handler's utilization of skim milk and butterfat in each class, in series beginning with Class IV, shall be assigned to the extent

possible to its receipts of skim milk and butterfat, in bulk fluid cream products, and bulk fluid milk products, respectively, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not a plant regulated under another order in 7 CFR, chapter X, an exempt plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i)(A) and (B) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization, excluding the milk equivalent of both nonfat milk solids and concentrated milk used in the plant during the month, to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(A) The transferring handler or diverting handler claims such classification in such handler's report of receipts and utilization filed pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X for the month within which such transaction occurred; and

(B) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order in 7 CFR, chapter X from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(B) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from plants regulated under other Federal orders in 7 CFR, chapter X;

(C) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(D) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from plants regulated under other Federal orders in 7 CFR, chapter X;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and plants regulated under other Federal orders in 7 CFR, chapter X;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant regulated under any Federal order in 7 CFR, chapter X, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the receiving plant, shall be assigned to the extent possible in the following sequence:

(A) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(B) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from plants regulated under other Federal orders in 7 CFR, chapter X;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(A) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(B) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal order in 7 CFR, chapter X which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and plants regulated under other Federal orders in 7 CFR, chapter X shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization and then to all other utilization, in sequence beginning with Class IV at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and plants regulated under other Federal orders in 7 CFR, chapter X shall be assigned, pro rata among such plants, to the extent possible to any remaining utilization, in sequence beginning with Class IV at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this paragraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal order in 7 CFR, chapter X shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

§ 1000.43 General classification rules.

In determining the classification of producer milk pursuant to § 1000.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1000.9(c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1000.40 and 1000.42, and paragraph (b) of this section.

(b) For purposes of classifying all milk reported by a handler pursuant to § ____.30 of each Federal milk order in 7 CFR, chapter X, the market administrator shall:

(1) Determine the shrinkage or overage of skim milk and butterfat for each pool plant and for each handler described in § 1000.9(c) by subtracting total utilization from total receipts. Any positive difference would be shrinkage, and any negative difference would be overage;

(2) Prorate the shrinkage or overage computed in paragraph (b)(1) of this section to the respective quantities of skim milk and butterfat reported in each class. In the case of a handler described in § 1000.9(c), the proration of shrinkage shall be based upon the utilization of the plants to which the milk was delivered; and

(3) Add the prorated shrinkage to, or subtract the prorated overage from, the handler's reported utilization. The results shall be known as the gross utilization in each class.

(c) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

(d) Skim milk and butterfat contained in receipts of bulk concentrated fluid milk and nonfluid milk products that are reconstituted for fluid use shall be assigned to Class I use, up to the reconstituted portion of labeled reconstituted fluid milk products, on a pro rata basis (except for any Class I use

of specific concentrated receipts that is established by the handler) prior to any assignments under § 1000.44. Any remaining skim milk and butterfat in concentrated receipts shall be assigned to uses under § 1000.44 on a pro rata basis, unless a specific use of such receipts is established by the handler.

§ 1000.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1000.9(a) for each pool plant of the handler separately and for each handler described in § 1000.9(c) the classification of producer milk by allocating the handler's receipts of skim milk and butterfat to the gross utilization of such receipts pursuant to § 1000.43(b)(3) by such handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal order in 7 CFR, chapter X is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order in 7 CFR, chapter X;

(ii) Packaged fluid milk products in inventory at the beginning of the month. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal order in 7 CFR, chapter X in the immediately preceding month;

(iii) Fluid milk products received in packaged form from plants regulated under other Federal orders in 7 CFR, chapter X;

(iv) Any remaining receipts of skim milk shall be allocated pursuant to paragraph (a)(3)(iv) of this section.

(2) Subtract from the pounds of skim milk in Class II the pounds of skim milk in the receipts of skim milk in bulk concentrated fluid milk products and in other source milk (except other source milk received in the form of an unconcentrated fluid milk product or a fluid cream product) that is used to produce, or added to, any product in Class II (excluding the quantity of such skim milk that was classified as Class III milk pursuant to § 1000.40(c)(4)). Any remaining receipts of skim milk shall be allocated pursuant to paragraph (a)(3)(iv) of this section.

(3) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class IV, the pounds of skim milk in:

(i) Receipts of bulk concentrated fluid milk products and other source milk (except other source milk received in the form of an unconcentrated fluid milk product);

(ii) Receipts of fluid milk products and bulk fluid cream products for which appropriate health approval is not established and from unidentified sources;

(iii) Receipts of fluid milk products and bulk fluid cream products from an exempt plant;

(iv) Fluid milk products and bulk fluid cream products received, or acquired for distribution, from a producer-handler as defined under this order or any other Federal order in 7 CFR, chapter X; and

(v) Any receipts not subtracted pursuant to paragraphs (a)(1) and (a)(2) of this section.

(4) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, the receipts of fluid milk products from an unregulated supply plant that were not previously subtracted in this section for which the handler requests classification other than Class I, but not in excess of the pounds of skim milk remaining in these other classes combined.

(5) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, receipts of fluid milk products from an unregulated supply plant that were not subtracted in previous paragraphs, and which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(5)(i) through (iii) of this section;

(i) Multiply by 1.25 the pounds of skim milk remaining in Class I at this allocation step;

(ii) Subtract from the above result the pounds of skim milk in receipts of producer milk and fluid milk products from pool plants of other handlers; and

(iii) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants remaining at this pool plant is of all such receipts remaining pursuant to this allocation step.

(6) Subtract from the pounds of skim milk remaining in all classes other than Class I, in sequence beginning with Class IV, the pounds of skim milk in receipts of bulk fluid milk products from a handler regulated under another Federal order in 7 CFR, chapter X that are in excess of bulk fluid milk products transferred or diverted to such handler, if other than Class I classification is requested, but not in excess of the pounds of skim milk remaining in these classes combined.

(7) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III (or Class IV if the plant had only Class IV utilization), the pounds of skim milk in fluid milk products and bulk fluid cream products in inventory at the beginning of the month that were not previously subtracted in this section.

(8) Subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in all other classes combined, and in sequence beginning with Class IV, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not previously subtracted in this section and that were not offset by transfers or diversions of fluid milk products to the unregulated supply plant from which fluid milk products to be allocated at this step were received.

(9) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from a handler regulated under another Federal order in 7 CFR, chapter X that are in excess of bulk fluid milk products transferred or diverted to such handler that were not subtracted in paragraph (a)(6) of this section;

(i) Such subtraction shall be pro rata to the pounds of skim milk in Class I and in all other classes combined, with the quantity prorated to all classes combined being subtracted in sequence beginning with Class IV, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(A) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1000.45(a); or

(B) The total pounds of skim milk remaining in each class at this allocation step.

(ii) [Reserved]

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1000.42(a).

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the

computations pursuant to paragraphs (a) and (b) of this section.

§ 1000.45 Market administrator's reports and announcements concerning classification.

(a) Whenever required for the purpose of allocating receipts from other Federal order plants pursuant to § 1000.44(a)(9) and the corresponding step of § 1000.44(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in Class I during the month of skim milk and butterfat, respectively, in producer milk of all handlers. The estimate shall be based upon the most current available data and shall be final for such purpose.

(b) The market administrator shall report to the other Federal order market administrators, as soon as possible after the handlers' reports of receipts and utilization are received, the class to which receipts from other Federal order plants are allocated pursuant to §§ 1000.43(d) and 1000.44 (including any reclassification of inventories of bulk concentrated fluid milk products), and thereafter any change in allocation required to correct errors disclosed on the verification of such report.

(c) The market administrator shall furnish each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to a plant fully regulated under another Federal order in 7 CFR, chapter X the class to which the shipments were allocated by the market administrator of the other Federal order in 7 CFR, chapter X on the basis of the report by the receiving handler and, as necessary, any changes in the allocation arising from the verification of such report.

(d) The market administrator shall report to each cooperative association which so requests, the percentage of producer milk delivered by members of the association that was used in each class by each handler receiving the milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by the handler.

Subpart G—Class Prices

§ 1000.50 Class prices and component prices.

Subject to the provisions of § 1000.52, the class prices per hundredweight of milk containing 3.5 percent butterfat and the component prices for the month shall be as follows:

(a) *Class I price.* The Class I price shall be .965 times the Class I skim milk price plus 3.5 times the Class I butterfat price.

(b) *Class II price.* The Class II price shall be .965 times the Class II skim milk price plus 3.5 times the month's butterfat price.

(c) *Class III price.* The Class III price shall be .965 times the Class III skim milk price plus 3.5 times the month's butterfat price.

(d) *Class IV price.* The Class IV price shall be .965 times the Class IV skim milk price plus 3.5 times the month's butterfat price.

(e) *Class I differential price.* The Class I differential price shall be the difference between the current month's Class I and Class III prices (this price may be negative).

(f) *Class II differential price.* The Class II differential price shall be the difference between the current month's Class II and Class IV prices.

(g) *Class I skim milk price.* The Class I skim milk price per hundredweight, rounded to the nearest cent, shall be the adjusted Class I differential effective at the location of the plant as specified in § 1000.52(a) plus a six month declining average computed by totaling the value of the higher of Class III or Class IV skim milk price for each month, starting with the second preceding month, multiplied by a factor of six and reducing the factor by one for each preceding month and dividing the sum by 21.

(h) *Class II skim milk price.* The Class II skim milk price per hundredweight shall be the Class IV skim milk price for the month plus 70 cents.

(i) *Class III skim milk price.* The Class III skim milk price per hundredweight, rounded to the nearest cent, shall be the protein price per pound times 3.3 pounds of protein plus the other solids price per pound times 5.7 pounds of other solids;

(j) *Class IV skim milk price.* The Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times 9 pounds of nonfat solids.

(k) *Class I butterfat price.* The Class I butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the adjusted Class I differential effective at the location of the plant as specified in § 1000.52(a) divided by 100, plus a six month declining average computed by totaling the value of the butterfat price for each month, starting with the second preceding month, multiplied by a factor of six and reducing the factor by one for each preceding month and dividing the sum by 21.

(l) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the National Agricultural Statistical Service (NASS) AA Butter survey price as reported by the Department less .079 (make allowance), with the result divided by 0.82.

(m) *Nonfat solids price.* The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the NASS nonfat dry milk survey price as reported by the Department less $0.125 (make allowance), with the result divided by 0.96.

(n) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent shall be the total of:

(1) The NASS 40-lb block cheese survey price as reported by the Department less 12.7 cents, with the result multiplied by 1.32; and

(2) Multiply by 1.20 an amount computed as follows: The NASS 40-lb block cheese survey price as reported by the Department less 12.7 cents, with the result multiplied by 1.582 then reduced by the butterfat price.

(o) *Other solids price.* The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the NASS dry whey survey price as reported by the Department minus 10 cents, with the result divided by 0.968.

(p) *Somatic cell adjustment.* (1) The somatic cell adjustment rate, per 1,000 somatic cells, rounded to five decimal places, shall be computed by multiplying .0005 times the monthly NASS 40-pound block cheese survey price;

(2) The somatic cell adjustment, per hundredweight, shall be determined by subtracting from 350 the somatic cell count (in thousands) of the milk, multiplying the difference by the somatic cell adjustment rate, and rounding to the nearest full cent.

§ 1000.51 [Reserved]

§ 1000.52 Adjusted Class I differentials.

The Class I differential adjusted for location to be used in § 1000.50(g) and (k) shall be as follows, except that:

(1) Under the Option 1B Revenue-Enhancement Phase-In, the differential shall be increased by $1.10 in 1999, $.70 in 2000, $.40 in 2001, and $.20 in 2002; and

(2) Under the Option 1B Revenue Neutral Phase-In, the differential shall be increased by $.55 in 1999, $.35 in 2000, $.20 in 2001, and $.10 in 2002:

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
AUTAUGA	AL	3.30	3.12	2.96	2.79	2.63	2.47
BALDWIN	AL	3.50	3.43	3.29	3.14	3.00	2.85
BARBOUR	AL	3.45	3.27	3.14	3.00	2.87	2.74
BIBB	AL	3.10	2.93	2.78	2.63	2.48	2.33
BLOUNT	AL	3.10	2.80	2.62	2.45	2.27	2.09
BULLOCK	AL	3.30	3.16	3.04	2.91	2.79	2.67
BUTLER	AL	3.45	3.26	3.11	2.97	2.82	2.68
CALHOUN	AL	3.10	2.92	2.75	2.59	2.42	2.26
CHAMBERS	AL	3.10	3.05	2.92	2.79	2.66	2.53
CHEROKEE	AL	3.10	2.82	2.66	2.51	2.35	2.19
CHILTON	AL	3.10	3.02	2.86	2.71	2.55	2.39
CHOCTAW	AL	3.30	3.23	3.06	2.90	2.73	2.56
CLARKE	AL	3.45	3.25	3.10	2.94	2.79	2.64
CLAY	AL	3.10	2.94	2.80	2.65	2.51	2.37
CLEBURNE	AL	3.10	2.93	2.78	2.63	2.48	2.33
COFFEE	AL	3.45	3.28	3.16	3.05	2.93	2.81
COLBERT	AL	2.90	2.67	2.50	2.34	2.17	2.01
CONECUH	AL	3.45	3.27	3.13	3.00	2.86	2.73
COOSA	AL	3.10	3.02	2.86	2.71	2.55	2.39
COVINGTON	AL	3.45	3.28	3.15	3.03	2.90	2.78
CRENSHAW	AL	3.45	3.26	3.12	2.97	2.83	2.69
CULLMAN	AL	3.10	2.79	2.60	2.41	2.22	2.03
DALE	AL	3.45	3.28	3.16	3.05	2.93	2.81
DALLAS	AL	3.30	3.13	2.98	2.82	2.67	2.52
DE KALB	AL	2.90	2.68	2.53	2.38	2.23	2.08
ELMORE	AL	3.30	3.12	2.96	2.81	2.65	2.49
ESCAMBIA	AL	3.45	3.28	3.16	3.04	2.92	2.80
ETOWAH	AL	3.10	2.81	2.65	2.48	2.32	2.15
FAYETTE	AL	3.10	2.83	2.68	2.54	2.39	2.24
FRANKLIN	AL	2.90	2.68	2.53	2.39	2.24	2.09
GENEVA	AL	3.45	3.29	3.19	3.08	2.98	2.87
GREENE	AL	3.10	3.03	2.88	2.72	2.57	2.42
HALE	AL	3.10	3.03	2.88	2.73	2.58	2.43
HENRY	AL	3.45	3.28	3.17	3.05	2.94	2.82
HOUSTON	AL	3.45	3.29	3.19	3.08	2.98	2.87
JACKSON	AL	2.90	2.66	2.50	2.33	2.17	2.00
JEFFERSON	AL	3.10	2.90	2.72	2.55	2.37	2.19
LAMAR	AL	3.10	2.84	2.70	2.55	2.41	2.27
LAUDERDALE	AL	2.90	2.65	2.48	2.30	2.13	1.95
LAWRENCE	AL	2.90	2.66	2.49	2.31	2.14	1.97
LEE	AL	3.30	3.06	2.95	2.83	2.72	2.60
LIMESTONE	AL	2.90	2.64	2.44	2.25	2.05	1.86
LOWNDES	AL	3.30	3.14	2.99	2.85	2.70	2.56
MACON	AL	3.30	3.14	3.01	2.87	2.74	2.60
MADISON	AL	2.90	2.64	2.44	2.25	2.05	1.86
MARENGO	AL	3.30	3.13	2.98	2.83	2.68	2.53
MARION	AL	3.10	2.81	2.65	2.48	2.32	2.15
MARSHALL	AL	2.90	2.66	2.49	2.33	2.16	1.99
MOBILE	AL	3.50	3.43	3.27	3.12	2.96	2.81
MONROE	AL	3.45	3.26	3.12	2.97	2.83	2.69
MONTGOMERY	AL	3.30	3.13	2.99	2.84	2.70	2.55
MORGAN	AL	2.90	2.65	2.47	2.30	2.12	1.94
PERRY	AL	3.10	3.03	2.89	2.74	2.60	2.45
PICKENS	AL	3.10	2.93	2.78	2.64	2.49	2.34
PIKE	AL	3.45	3.26	3.12	2.98	2.84	2.70
RANDOLPH	AL	3.10	2.95	2.82	2.69	2.56	2.43
RUSSELL	AL	3.30	3.16	3.05	2.93	2.82	2.70
SHELBY	AL	3.10	2.91	2.75	2.58	2.42	2.25
ST. CLAIR	AL	3.10	2.90	2.72	2.54	2.36	2.18
SUMTER	AL	3.10	3.04	2.90	2.75	2.61	2.47
TALLADEGA	AL	3.10	2.92	2.76	2.61	2.45	2.29
TALLAPOOSA	AL	3.10	3.04	2.90	2.76	2.62	2.48
TUSCALOOSA	AL	3.10	2.92	2.76	2.61	2.45	2.29
WALKER	AL	3.10	2.81	2.65	2.48	2.32	2.15
WASHINGTON	AL	3.45	3.25	3.11	2.96	2.82	2.67
WILCOX	AL	3.30	3.14	3.00	2.86	2.72	2.58
WINSTON	AL	3.10	2.80	2.61	2.43	2.24	2.06
ARKANSAS	AR	2.90	2.71	2.59	2.46	2.34	2.22
ASHLEY	AR	3.10	2.92	2.76	2.60	2.44	2.28
BAXTER	AR	2.60	2.36	2.17	1.97	1.78	1.59

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
BENTON	AR	2.60	2.30	2.04	1.79	1.53	1.28
BOONE	AR	2.60	2.33	2.11	1.88	1.66	1.44
BRADLEY	AR	2.90	2.82	2.66	2.50	2.34	2.18
CALHOUN	AR	2.90	2.80	2.62	2.45	2.27	2.09
CARROLL	AR	2.60	2.31	2.07	1.82	1.58	1.34
CHICOT	AR	3.10	2.93	2.78	2.64	2.49	2.34
CLARK	AR	2.90	2.64	2.45	2.27	2.08	1.89
CLAY	AR	2.60	2.42	2.30	2.17	2.05	1.92
CLEBURNE	AR	2.80	2.53	2.36	2.18	2.01	1.84
CLEVELAND	AR	2.90	2.81	2.63	2.46	2.28	2.11
COLUMBIA	AR	3.10	2.86	2.64	2.42	2.20	1.98
CONWAY	AR	2.80	2.56	2.36	2.15	1.95	1.74
CRAIGHEAD	AR	2.60	2.58	2.46	2.33	2.21	2.09
CRAWFORD	AR	2.80	2.51	2.26	2.00	1.75	1.49
CRITTENDEN	AR	2.80	2.69	2.61	2.53	2.45	2.37
CROSS	AR	2.80	2.67	2.57	2.46	2.36	2.26
DALLAS	AR	2.90	2.78	2.58	2.39	2.19	1.99
DESHA	AR	2.90	2.84	2.70	2.56	2.42	2.28
DREW	AR	2.90	2.83	2.68	2.53	2.38	2.23
FAULKNER	AR	2.80	2.59	2.41	2.22	2.04	1.86
FRANKLIN	AR	2.80	2.52	2.27	2.01	1.76	1.51
FULTON	AR	2.60	2.38	2.20	2.03	1.85	1.68
GARLAND	AR	2.80	2.58	2.39	2.19	2.00	1.81
GRANT	AR	2.90	2.66	2.50	2.33	2.17	2.00
GREENE	AR	2.60	2.44	2.33	2.23	2.12	2.01
HEMPSTEAD	AR	2.90	2.75	2.51	2.28	2.04	1.81
HOT SPRING	AR	2.90	2.64	2.45	2.27	2.08	1.89
HOWARD	AR	2.90	2.60	2.38	2.15	1.93	1.70
INDEPENDENCE	AR	2.60	2.54	2.38	2.22	2.06	1.90
IZARD	AR	2.60	2.39	2.23	2.07	1.91	1.75
JACKSON	AR	2.60	2.57	2.44	2.30	2.17	2.04
JEFFERSON	AR	2.90	2.69	2.55	2.41	2.27	2.13
JOHNSON	AR	2.80	2.47	2.24	2.02	1.79	1.56
LAFAYETTE	AR	3.10	2.84	2.60	2.35	2.11	1.87
LAWRENCE	AR	2.60	2.43	2.30	2.18	2.05	1.93
LEE	AR	2.80	2.68	2.58	2.49	2.39	2.30
LINCOLN	AR	2.90	2.82	2.66	2.51	2.35	2.19
LITTLE RIVER	AR	2.90	2.72	2.46	2.20	1.94	1.68
LOGAN	AR	2.80	2.53	2.30	2.06	1.83	1.59
LONOKE	AR	2.80	2.62	2.46	2.31	2.15	2.00
MADISON	AR	2.60	2.32	2.08	1.85	1.61	1.38
MARION	AR	2.60	2.34	2.13	1.93	1.72	1.51
MILLER	AR	3.10	2.82	2.57	2.31	2.06	1.80
MISSISSIPPI	AR	2.60	2.59	2.48	2.37	2.26	2.15
MONROE	AR	2.80	2.66	2.55	2.45	2.34	2.23
MONTGOMERY	AR	2.80	2.57	2.37	2.16	1.96	1.76
NEVADA	AR	2.90	2.77	2.55	2.34	2.12	1.91
NEWTON	AR	2.60	2.38	2.15	1.93	1.70	1.48
OUACHITA	AR	2.90	2.79	2.59	2.40	2.20	2.01
PERRY	AR	2.80	2.57	2.38	2.18	1.99	1.79
PHILLIPS	AR	2.90	2.73	2.63	2.52	2.42	2.32
PIKE	AR	2.90	2.62	2.40	2.19	1.97	1.76
POINSETT	AR	2.60	2.59	2.49	2.38	2.28	2.17
POLK	AR	2.80	2.54	2.31	2.07	1.84	1.61
POPE	AR	2.80	2.49	2.28	2.06	1.85	1.64
PRAIRIE	AR	2.80	2.64	2.52	2.39	2.27	2.14
PULASKI	AR	2.80	2.61	2.45	2.28	2.12	1.96
RANDOLPH	AR	2.60	2.41	2.27	2.12	1.98	1.84
SALINE	AR	2.80	2.60	2.43	2.26	2.09	1.92
SCOTT	AR	2.80	2.54	2.31	2.07	1.84	1.61
SEARCY	AR	2.60	2.40	2.19	1.99	1.78	1.58
SEBASTIAN	AR	2.80	2.53	2.28	2.04	1.79	1.55
SEVIER	AR	2.90	2.59	2.35	2.11	1.87	1.63
SHARP	AR	2.60	2.41	2.26	2.12	1.97	1.83
ST. FRANCIS	AR	2.80	2.68	2.58	2.49	2.39	2.30
STONE	AR	2.60	2.43	2.26	2.08	1.91	1.74
UNION	AR	3.10	2.89	2.70	2.51	2.32	2.13
VAN BUREN	AR	2.80	2.50	2.31	2.11	1.92	1.72
WASHINGTON	AR	2.60	2.31	2.07	1.82	1.58	1.34
WHITE	AR	2.80	2.61	2.46	2.30	2.15	1.99

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
WOODRUFF	AR	2.80	2.64	2.51	2.39	2.26	2.13
YELL	AR	2.80	2.55	2.33	2.12	1.90	1.68
APACHE	AZ	1.90	2.25	2.11	1.96	1.82	1.67
COCHISE	AZ	2.10	2.20	1.98	1.75	1.53	1.31
COCONINO	AZ	1.90	2.24	2.07	1.90	1.73	1.56
GILA	AZ	2.10	2.18	1.95	1.73	1.50	1.28
GRAHAM	AZ	2.10	2.28	2.03	1.79	1.54	1.30
GREENLEE	AZ	2.10	2.21	2.00	1.80	1.59	1.38
LA PAZ	AZ	2.10	2.23	2.06	1.88	1.71	1.54
MARICOPA	AZ	2.35	2.24	1.97	1.69	1.42	1.14
MOHAVE	AZ	1.90	2.10	2.00	1.90	1.80	1.70
NAVAJO	AZ	1.90	2.18	2.02	1.87	1.71	1.56
PIMA	AZ	2.35	2.37	2.10	1.82	1.55	1.28
PINAL	AZ	2.35	2.26	2.00	1.73	1.47	1.21
SANTA CRUZ	AZ	2.10	2.28	2.04	1.79	1.55	1.31
YAVAPAI	AZ	1.90	2.20	2.00	1.81	1.61	1.41
YUMA	AZ	2.10	2.25	2.08	1.92	1.75	1.58
ALAMEDA	CA	1.80	1.69	1.59	1.48	1.38	1.27
ALPINE	CA	1.70	1.53	1.36	1.20	1.03	0.86
AMADOR	CA	1.70	1.54	1.39	1.23	1.08	0.92
BUTTE	CA	1.70	1.72	1.60	1.47	1.35	1.23
CALAVERAS	CA	1.70	1.54	1.37	1.21	1.04	0.88
COLUSA	CA	1.70	1.62	1.54	1.46	1.38	1.30
CONTRA COSTA	CA	1.80	1.68	1.57	1.45	1.34	1.22
DEL NORTE	CA	1.80	1.73	1.65	1.58	1.50	1.43
EL DORADO	CA	1.70	1.55	1.39	1.24	1.08	0.93
FRESNO	CA	1.60	1.59	1.41	1.24	1.06	0.89
GLENN	CA	1.70	1.63	1.55	1.48	1.40	1.33
HUMBOLDT	CA	1.80	1.73	1.66	1.58	1.51	1.44
IMPERIAL	CA	2.00	1.92	1.84	1.77	1.69	1.61
INYO	CA	1.60	1.51	1.43	1.34	1.26	1.17
KERN	CA	1.80	1.68	1.57	1.45	1.34	1.22
KINGS	CA	1.60	1.50	1.39	1.29	1.18	1.08
LAKE	CA	1.80	1.71	1.63	1.54	1.46	1.37
LASSEN	CA	1.70	1.57	1.44	1.32	1.19	1.06
LOS ANGELES	CA	2.10	2.03	1.82	1.61	1.40	1.19
MADERA	CA	1.60	1.45	1.30	1.15	1.00	0.85
MARIN	CA	1.80	1.71	1.62	1.53	1.44	1.35
MARIPOSA	CA	1.70	1.52	1.34	1.16	0.98	0.80
MENDOCINO	CA	1.80	1.72	1.65	1.57	1.50	1.42
MERCED	CA	1.70	1.54	1.39	1.23	1.08	0.92
MODOC	CA	1.70	1.59	1.48	1.38	1.27	1.16
MONO	CA	1.60	1.45	1.30	1.14	0.99	0.84
MONTEREY	CA	1.80	1.77	1.74	1.72	1.69	1.66
NAPA	CA	1.80	1.69	1.59	1.48	1.38	1.27
NEVADA	CA	1.70	1.57	1.44	1.30	1.17	1.04
ORANGE	CA	2.10	1.93	1.76	1.60	1.43	1.26
PLACER	CA	1.70	1.56	1.41	1.27	1.12	0.98
PLUMAS	CA	1.70	1.58	1.45	1.33	1.20	1.08
RIVERSIDE	CA	2.00	1.88	1.76	1.65	1.53	1.41
SACRAMENTO	CA	1.70	1.58	1.46	1.34	1.22	1.10
SAN BENITO	CA	1.80	1.74	1.69	1.63	1.58	1.52
SAN BERNARDINO	CA	1.80	1.72	1.64	1.57	1.49	1.41
SAN DIEGO	CA	2.10	2.07	1.91	1.74	1.58	1.41
SAN FRANCISCO	CA	1.80	1.74	1.64	1.53	1.43	1.33
SAN JOAQUIN	CA	1.70	1.56	1.42	1.29	1.15	1.01
SAN LUIS OBISPO	CA	1.80	1.73	1.66	1.60	1.53	1.46
SAN MATEO	CA	1.80	1.72	1.64	1.56	1.48	1.40
SANTA BARBARA	CA	1.80	1.74	1.67	1.61	1.54	1.48
SANTA CLARA	CA	1.80	1.73	1.65	1.58	1.50	1.43
SANTA CRUZ	CA	1.80	1.75	1.70	1.65	1.60	1.55
SHASTA	CA	1.70	1.74	1.64	1.53	1.43	1.33
SIERRA	CA	1.70	1.57	1.44	1.31	1.18	1.05
SISKIYOU	CA	1.80	1.71	1.63	1.54	1.46	1.37
SOLANO	CA	1.80	1.68	1.56	1.45	1.33	1.21
SONOMA	CA	1.80	1.71	1.63	1.54	1.46	1.37
STANISLAUS	CA	1.70	1.53	1.36	1.20	1.03	0.86
SUTTER	CA	1.70	1.61	1.52	1.42	1.33	1.24
TEHAMA	CA	1.70	1.63	1.55	1.48	1.40	1.33
TRINITY	CA	1.80	1.72	1.65	1.57	1.50	1.42

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TULARE	CA	1.60	1.48	1.37	1.25	1.14	1.02
TUOLUMNE	CA	1.70	1.52	1.35	1.17	1.00	0.82
VENTURA	CA	1.80	1.71	1.61	1.52	1.42	1.33
YOLO	CA	1.70	1.60	1.50	1.39	1.29	1.19
YUBA	CA	1.70	1.60	1.50	1.39	1.29	1.19
ADAMS	CO	2.55	2.40	2.07	1.75	1.42	1.09
ALAMOSA	CO	1.90	2.35	2.20	2.05	1.90	1.75
ARAPAHOE	CO	2.55	2.42	2.11	1.79	1.48	1.17
ARCHULETA	CO	1.90	1.73	1.76	1.80	1.83	1.86
BACA	CO	2.35	2.29	2.08	1.86	1.65	1.44
BENT	CO	2.35	2.35	2.11	1.86	1.62	1.37
BOULDER	CO	2.45	2.31	2.01	1.72	1.42	1.13
CHAFFEE	CO	1.90	2.31	2.12	1.92	1.73	1.54
CHEYENNE	CO	2.35	2.25	2.00	1.74	1.49	1.24
CLEAR CREEK	CO	2.45	2.33	2.06	1.78	1.51	1.24
CONEJOS	CO	1.90	2.29	2.18	2.06	1.95	1.84
COSTILLA	CO	1.90	2.35	2.20	2.04	1.89	1.74
CROWLEY	CO	2.45	2.47	2.20	1.94	1.67	1.41
CUSTER	CO	2.45	2.39	2.18	1.98	1.77	1.56
DELTA	CO	2.00	1.95	1.89	1.84	1.78	1.73
DENVER	CO	2.55	2.41	2.09	1.78	1.46	1.14
DOLORES	CO	1.90	1.80	1.80	1.80	1.80	1.80
DOUGLAS	CO	2.55	2.43	2.13	1.83	1.53	1.23
EAGLE	CO	1.90	1.72	1.64	1.56	1.48	1.40
EL PASO	CO	2.45	2.43	2.13	1.83	1.53	1.23
ELBERT	CO	2.55	2.45	2.18	1.90	1.63	1.35
FREMONT	CO	2.45	2.38	2.16	1.94	1.72	1.50
GARFIELD	CO	2.00	1.92	1.83	1.75	1.66	1.58
GILPIN	CO	2.45	2.32	2.04	1.76	1.48	1.20
GRAND	CO	1.90	2.25	2.00	1.74	1.49	1.24
GUNNISON	CO	1.90	1.77	1.74	1.70	1.67	1.64
HINSDALE	CO	1.90	1.79	1.78	1.78	1.77	1.76
HUERFANO	CO	2.45	2.40	2.21	2.01	1.82	1.62
JACKSON	CO	1.90	2.24	1.98	1.72	1.46	1.20
JEFFERSON	CO	2.55	2.43	2.13	1.82	1.52	1.22
KIOWA	CO	2.35	2.34	2.08	1.83	1.57	1.31
KIT CARSON	CO	2.35	2.24	1.97	1.71	1.44	1.18
LA PLATA	CO	1.90	2.29	2.08	1.87	1.66	1.45
LAKE	CO	1.90	1.73	1.76	1.78	1.81	1.84
LARIMER	CO	2.45	2.30	2.00	1.69	1.39	1.09
LAS ANIMAS	CO	2.35	2.41	2.22	2.04	1.85	1.66
LINCOLN	CO	2.45	2.33	2.06	1.78	1.51	1.24
LOGAN	CO	2.35	2.21	1.91	1.62	1.32	1.03
MESA	CO	2.00	1.95	1.89	1.84	1.78	1.73
MINERAL	CO	1.90	1.71	1.73	1.74	1.76	1.77
MOFFAT	CO	1.90	1.71	1.62	1.53	1.44	1.35
MONTEZUMA	CO	1.90	1.72	1.74	1.77	1.79	1.81
MONTROSE	CO	2.00	1.96	1.91	1.87	1.82	1.78
MORGAN	CO	2.35	2.29	1.98	1.66	1.35	1.04
OTERO	CO	2.45	2.47	2.21	1.95	1.69	1.43
OURAY	CO	1.90	1.80	1.80	1.79	1.79	1.79
PARK	CO	2.45	2.35	2.10	1.85	1.60	1.35
PHILLIPS	CO	2.35	2.13	1.87	1.60	1.34	1.07
PITKIN	CO	1.90	1.74	1.68	1.63	1.57	1.51
PROWERS	CO	2.35	2.27	2.04	1.80	1.57	1.34
PUEBLO	CO	2.45	2.48	2.23	1.99	1.74	1.49
RIO BLANCO	CO	1.90	1.73	1.66	1.60	1.53	1.46
RIO GRANDE	CO	1.90	2.27	2.15	2.02	1.90	1.77
ROUTT	CO	1.90	1.70	1.60	1.50	1.40	1.30
SAGUACHE	CO	1.90	1.69	1.67	1.66	1.64	1.63
SAN JUAN	CO	1.90	1.80	1.80	1.80	1.80	1.80
SAN MIGUEL	CO	1.90	1.80	1.80	1.80	1.80	1.80
SEDGWICK	CO	2.35	2.13	1.85	1.58	1.30	1.03
SUMMIT	CO	1.90	2.27	2.04	1.80	1.57	1.34
TELLER	CO	2.45	2.46	2.20	1.93	1.67	1.40
WASHINGTON	CO	2.35	2.30	1.99	1.69	1.38	1.08
WELD	CO	2.45	2.28	1.96	1.63	1.31	0.99
YUMA	CO	2.35	2.22	1.95	1.67	1.40	1.12
FAIRFIELD	CT	3.10	2.91	2.72	2.54	2.35	2.17
HARTFORD	CT	3.10	2.92	2.70	2.47	2.25	2.03

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
LITCHFIELD	CT	3.00	2.91	2.68	2.44	2.21	1.98
MIDDLESEX	CT	3.10	2.97	2.77	2.58	2.38	2.18
NEW HAVEN	CT	3.10	2.95	2.75	2.56	2.36	2.17
NEW LONDON	CT	3.10	2.99	2.80	2.62	2.43	2.25
TOLLAND	CT	3.10	2.97	2.76	2.54	2.33	2.11
WINDHAM	CT	3.10	3.00	2.80	2.61	2.41	2.22
DISTRICT OF COLUMBIA	DC	3.00	2.74	2.45	2.17	1.88	1.59
KENT	DE	3.00	2.69	2.47	2.25	2.03	1.81
NEW CASTLE	DE	3.00	2.81	2.53	2.24	1.96	1.68
SUSSEX	DE	3.00	2.68	2.49	2.29	2.10	1.91
ALACHUA	FL	3.70	3.55	3.52	3.50	3.47	3.44
BAKER	FL	3.70	3.52	3.47	3.41	3.36	3.30
BAY	FL	3.70	3.47	3.37	3.26	3.16	3.05
BRADFORD	FL	3.70	3.54	3.51	3.47	3.44	3.40
BREVARD	FL	4.00	3.86	3.84	3.83	3.81	3.79
BROWARD	FL	4.30	4.19	4.20	4.20	4.21	4.22
CALHOUN	FL	3.70	3.47	3.36	3.26	3.15	3.04
CHARLOTTE	FL	4.30	3.91	3.95	3.98	4.02	4.05
CITRUS	FL	4.00	3.82	3.77	3.71	3.66	3.60
CLAY	FL	3.70	3.55	3.51	3.48	3.44	3.41
COLLIER	FL	4.30	3.94	4.00	4.07	4.13	4.19
COLUMBIA	FL	3.70	3.52	3.47	3.41	3.36	3.30
DADE	FL	4.30	4.20	4.22	4.25	4.27	4.29
DE SOTO	FL	4.30	3.91	3.93	3.96	3.98	4.01
DIXIE	FL	3.70	3.54	3.50	3.45	3.41	3.37
DUVAL	FL	3.70	3.54	3.49	3.45	3.40	3.36
ESCAMBIA	FL	3.45	3.44	3.30	3.16	3.02	2.88
FLAGLER	FL	4.00	3.81	3.74	3.68	3.61	3.54
FRANKLIN	FL	3.70	3.50	3.42	3.35	3.27	3.19
GADSDEN	FL	3.70	3.48	3.37	3.27	3.16	3.06
GILCHRIST	FL	3.70	3.54	3.50	3.47	3.43	3.39
GLADES	FL	4.30	4.16	4.14	4.11	4.09	4.07
GULF	FL	3.70	3.49	3.40	3.30	3.21	3.12
HAMILTON	FL	3.70	3.50	3.42	3.35	3.27	3.19
HARDEE	FL	4.30	3.89	3.91	3.92	3.94	3.95
HENDRY	FL	4.30	4.17	4.15	4.14	4.12	4.11
HERNANDO	FL	4.00	3.84	3.80	3.77	3.73	3.69
HIGHLANDS	FL	4.30	3.90	3.92	3.94	3.96	3.98
HILLSBOROUGH	FL	4.00	3.87	3.85	3.84	3.82	3.81
HOLMES	FL	3.70	3.45	3.31	3.18	3.04	2.91
INDIAN RIVER	FL	4.00	4.13	4.07	4.02	3.96	3.91
JACKSON	FL	3.70	3.46	3.33	3.21	3.08	2.96
JEFFERSON	FL	3.70	3.49	3.40	3.32	3.23	3.14
LAFAYETTE	FL	3.70	3.55	3.52	3.48	3.45	3.42
LAKE	FL	4.00	3.84	3.80	3.75	3.71	3.67
LEE	FL	4.30	3.92	3.97	4.01	4.06	4.10
LEON	FL	3.70	3.49	3.39	3.30	3.20	3.11
LEVY	FL	4.00	3.80	3.72	3.64	3.56	3.48
LIBERTY	FL	3.70	3.48	3.39	3.29	3.20	3.10
MADISON	FL	3.70	3.49	3.40	3.30	3.21	3.12
MANATEE	FL	4.30	3.89	3.91	3.92	3.94	3.95
MARION	FL	4.00	3.81	3.75	3.68	3.62	3.55
MARTIN	FL	4.30	4.15	4.12	4.09	4.06	4.03
MONROE	FL	4.30	4.21	4.23	4.26	4.28	4.31
NASSAU	FL	3.70	3.51	3.45	3.38	3.32	3.25
OKALOOSA	FL	3.45	3.44	3.30	3.17	3.03	2.89
OKEECHOBEE	FL	4.30	4.14	4.11	4.07	4.04	4.00
ORANGE	FL	4.00	3.85	3.82	3.78	3.75	3.72
OSCEOLA	FL	4.00	3.87	3.86	3.84	3.83	3.82
PALM BEACH	FL	4.30	4.17	4.16	4.14	4.13	4.12
PASCO	FL	4.00	3.85	3.82	3.78	3.75	3.72
PINELLAS	FL	4.00	3.87	3.85	3.84	3.82	3.81
POLK	FL	4.00	3.87	3.86	3.85	3.84	3.83
PUTNAM	FL	3.70	3.57	3.55	3.54	3.52	3.51
SANTA ROSA	FL	3.45	3.44	3.30	3.16	3.02	2.88
SARASOTA	FL	4.30	3.90	3.93	3.95	3.98	4.00
SEMINOLE	FL	4.00	3.84	3.80	3.77	3.73	3.69
ST. JOHNS	FL	3.70	3.55	3.53	3.50	3.48	3.45
ST. LUCIE	FL	4.30	4.14	4.10	4.05	4.01	3.97
SUMTER	FL	4.00	3.83	3.79	3.74	3.70	3.65

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
SUWANNEE	FL	3.70	3.51	3.45	3.38	3.32	3.25
TAYLOR	FL	3.70	3.51	3.44	3.37	3.30	3.23
UNION	FL	3.70	3.53	3.49	3.44	3.40	3.35
VOLUSIA	FL	4.00	3.83	3.78	3.72	3.67	3.62
WAKULLA	FL	3.70	3.50	3.41	3.33	3.24	3.16
WALTON	FL	3.45	3.45	3.32	3.20	3.07	2.94
WASHINGTON	FL	3.70	3.46	3.33	3.21	3.08	2.96
APPLING	GA	3.45	3.28	3.17	3.05	2.94	2.82
ATKINSON	GA	3.45	3.31	3.22	3.12	3.03	2.94
BACON	GA	3.45	3.30	3.20	3.11	3.01	2.91
BAKER	GA	3.45	3.30	3.19	3.09	2.98	2.88
BALDWIN	GA	3.10	3.03	2.88	2.72	2.57	2.42
BANKS	GA	3.10	2.93	2.77	2.62	2.46	2.31
BARROW	GA	3.10	2.94	2.81	2.67	2.54	2.40
BARTOW	GA	3.10	2.85	2.72	2.58	2.45	2.32
BEN HILL	GA	3.45	3.28	3.16	3.03	2.91	2.79
BERRIEN	GA	3.45	3.31	3.22	3.12	3.03	2.94
BIBB	GA	3.30	3.02	2.86	2.70	2.54	2.38
BLECKLEY	GA	3.30	3.13	2.98	2.84	2.69	2.54
BRANTLEY	GA	3.45	3.33	3.26	3.20	3.13	3.06
BROOKS	GA	3.45	3.33	3.26	3.18	3.11	3.04
BRYAN	GA	3.45	3.29	3.18	3.07	2.96	2.85
BULLOCH	GA	3.30	3.16	3.04	2.93	2.81	2.69
BURKE	GA	3.30	3.05	2.91	2.78	2.64	2.51
BUTTS	GA	3.10	2.95	2.82	2.70	2.57	2.44
CALHOUN	GA	3.45	3.29	3.18	3.06	2.95	2.84
CAMDEN	GA	3.45	3.36	3.31	3.27	3.22	3.18
CANDLER	GA	3.30	3.16	3.04	2.93	2.81	2.69
CARROLL	GA	3.10	2.95	2.82	2.68	2.55	2.42
CATOOSA	GA	2.80	2.64	2.51	2.38	2.25	2.12
CHARLTON	GA	3.45	3.36	3.32	3.27	3.23	3.19
CHATHAM	GA	3.45	3.30	3.20	3.09	2.99	2.89
CHATTAHOOCHEE	GA	3.30	3.16	3.05	2.93	2.82	2.70
CHATTOOGA	GA	2.80	2.65	2.53	2.42	2.30	2.18
CHEROKEE	GA	3.10	2.86	2.73	2.61	2.48	2.36
CLARKE	GA	3.10	2.94	2.80	2.67	2.53	2.39
CLAY	GA	3.45	3.28	3.16	3.04	2.92	2.80
CLAYTON	GA	3.10	2.96	2.84	2.72	2.60	2.48
CLINCH	GA	3.45	3.34	3.27	3.21	3.14	3.08
COBB	GA	3.10	2.95	2.82	2.69	2.56	2.43
COFFEE	GA	3.45	3.30	3.19	3.09	2.98	2.88
COLQUITT	GA	3.45	3.31	3.21	3.12	3.02	2.93
COLUMBIA	GA	3.10	3.02	2.86	2.71	2.55	2.39
COOK	GA	3.45	3.31	3.22	3.13	3.04	2.95
COWETA	GA	3.10	2.96	2.84	2.71	2.59	2.47
CRAWFORD	GA	3.30	3.04	2.90	2.77	2.63	2.49
CRISP	GA	3.45	3.17	3.06	2.95	2.84	2.73
DADE	GA	2.80	2.64	2.50	2.37	2.23	2.10
DAWSON	GA	3.10	2.85	2.71	2.58	2.44	2.31
DE KALB	GA	3.45	3.32	3.24	3.15	3.07	2.99
DECATUR	GA	3.10	2.96	2.83	2.71	2.58	2.46
DODGE	GA	3.45	3.15	3.02	2.89	2.76	2.63
DOOLY	GA	3.45	3.15	3.02	2.89	2.76	2.63
DOUGHERTY	GA	3.45	3.29	3.17	3.06	2.94	2.83
DOUGLAS	GA	3.10	2.95	2.82	2.70	2.57	2.44
EARLY	GA	3.45	3.30	3.19	3.09	2.98	2.88
ECHOLS	GA	3.45	3.34	3.29	3.23	3.18	3.12
EFFINGHAM	GA	3.30	3.17	3.06	2.95	2.84	2.73
ELBERT	GA	3.10	2.92	2.77	2.61	2.46	2.30
EMANUEL	GA	3.30	3.14	3.01	2.87	2.74	2.60
EVANS	GA	3.45	3.18	3.08	2.97	2.87	2.77
FANNIN	GA	2.80	2.65	2.53	2.42	2.30	2.18
FAYETTE	GA	3.10	2.96	2.84	2.72	2.60	2.48
FLOYD	GA	3.10	2.84	2.69	2.55	2.40	2.26
FORSYTH	GA	3.10	2.94	2.79	2.65	2.50	2.36
FRANKLIN	GA	3.10	2.92	2.76	2.59	2.43	2.27
FULTON	GA	3.10	2.96	2.83	2.71	2.58	2.46
GILMER	GA	3.10	2.71	2.59	2.46	2.34	2.22
GLASCOCK	GA	3.10	3.03	2.88	2.74	2.59	2.44
GLYNN	GA	3.45	3.34	3.28	3.22	3.16	3.10

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
GORDON	GA	3.10	2.83	2.68	2.54	2.39	2.24
GRADY	GA	3.45	3.32	3.24	3.15	3.07	2.99
GREENE	GA	3.10	2.94	2.81	2.67	2.54	2.40
GWINNETT	GA	3.10	2.95	2.82	2.69	2.56	2.43
HABERSHAM	GA	3.10	2.83	2.68	2.54	2.39	2.24
HALL	GA	3.10	2.93	2.78	2.64	2.49	2.34
HANCOCK	GA	3.10	3.03	2.88	2.72	2.57	2.42
HARALSON	GA	3.10	2.93	2.79	2.64	2.50	2.35
HARRIS	GA	3.30	3.06	2.95	2.83	2.72	2.60
HART	GA	3.10	2.92	2.75	2.59	2.42	2.26
HEARD	GA	3.10	2.96	2.83	2.71	2.58	2.46
HENRY	GA	3.10	2.96	2.84	2.71	2.59	2.47
HOUSTON	GA	3.30	3.12	2.96	2.81	2.65	2.49
IRWIN	GA	3.45	3.28	3.17	3.05	2.94	2.82
JACKSON	GA	3.10	2.94	2.79	2.65	2.50	2.36
JASPER	GA	3.10	2.95	2.82	2.68	2.55	2.42
JEFF DAVIS	GA	3.45	3.28	3.16	3.05	2.93	2.81
JEFFERSON	GA	3.30	3.04	2.90	2.76	2.62	2.48
JENKINS	GA	3.30	3.14	3.00	2.87	2.73	2.59
JOHNSON	GA	3.30	3.13	2.99	2.84	2.70	2.55
JONES	GA	3.10	3.02	2.86	2.71	2.55	2.39
LAMAR	GA	3.10	3.04	2.90	2.75	2.61	2.47
LANIER	GA	3.45	3.33	3.26	3.18	3.11	3.04
LAURENS	GA	3.30	3.14	3.00	2.85	2.71	2.57
LEE	GA	3.45	3.28	3.15	3.03	2.90	2.78
LIBERTY	GA	3.45	3.30	3.20	3.09	2.99	2.89
LINCOLN	GA	3.10	2.93	2.79	2.64	2.50	2.35
LONG	GA	3.45	3.30	3.20	3.09	2.99	2.89
LOWNDES	GA	3.45	3.33	3.26	3.18	3.11	3.04
LUMPKIN	GA	3.10	2.84	2.70	2.55	2.41	2.27
MACON	GA	3.10	3.02	2.87	2.71	2.56	2.40
MADISON	GA	3.45	3.32	3.24	3.15	3.07	2.99
MARION	GA	3.30	3.15	3.01	2.88	2.74	2.61
MCDUFFIE	GA	3.10	2.93	2.79	2.64	2.50	2.35
MCINTOSH	GA	3.30	3.16	3.03	2.91	2.78	2.66
MERIWETHER	GA	3.10	3.05	2.92	2.79	2.66	2.53
MILLER	GA	3.45	3.30	3.20	3.11	3.01	2.91
MITCHELL	GA	3.45	3.30	3.20	3.11	3.01	2.91
MONROE	GA	3.10	3.03	2.88	2.73	2.58	2.43
MONTGOMERY	GA	3.45	3.17	3.05	2.94	2.82	2.71
MORGAN	GA	3.10	2.95	2.82	2.68	2.55	2.42
MURRAY	GA	2.80	2.66	2.54	2.43	2.31	2.20
MUSCOGEE	GA	3.30	3.08	2.98	2.87	2.77	2.67
NEWTON	GA	3.10	2.95	2.82	2.70	2.57	2.44
OCONEE	GA	3.10	2.94	2.81	2.67	2.54	2.40
OGLETHORPE	GA	3.10	2.94	2.79	2.65	2.50	2.36
PAULDING	GA	3.10	2.94	2.81	2.67	2.54	2.40
PEACH	GA	3.30	3.12	2.97	2.81	2.66	2.50
PICKENS	GA	3.10	2.84	2.70	2.57	2.43	2.29
PIERCE	GA	3.45	3.32	3.24	3.15	3.07	2.99
PIKE	GA	3.10	3.04	2.91	2.77	2.64	2.50
POLK	GA	3.10	2.92	2.77	2.61	2.46	2.30
PULASKI	GA	3.45	3.14	3.01	2.87	2.74	2.60
PUTNAM	GA	3.10	2.95	2.81	2.68	2.54	2.41
QUITMAN	GA	3.45	3.27	3.14	3.02	2.89	2.76
RABUN	GA	3.10	2.81	2.65	2.48	2.32	2.15
RANDOLPH	GA	3.45	3.28	3.16	3.03	2.91	2.79
RICHMOND	GA	3.30	3.03	2.88	2.72	2.57	2.42
ROCKDALE	GA	3.10	2.95	2.83	2.70	2.58	2.45
SCHLEY	GA	3.30	3.16	3.03	2.91	2.78	2.66
SCREVEN	GA	3.30	3.15	3.02	2.88	2.75	2.62
SEMINOLE	GA	3.45	3.31	3.22	3.12	3.03	2.94
SPALDING	GA	3.10	2.96	2.84	2.72	2.60	2.48
STEPHENS	GA	3.10	2.91	2.75	2.58	2.42	2.25
STEWART	GA	3.45	3.17	3.06	2.95	2.84	2.73
SUMTER	GA	3.45	3.16	3.05	2.93	2.82	2.70
TALBOT	GA	3.30	3.06	2.94	2.81	2.69	2.57
TALIAFERRO	GA	3.10	2.94	2.81	2.67	2.54	2.40
TATTNALL	GA	3.45	3.18	3.09	2.99	2.90	2.80
TAYLOR	GA	3.30	3.06	2.94	2.82	2.70	2.58

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TELFAIR	GA	3.45	3.17	3.07	2.96	2.86	2.75
TERRELL	GA	3.45	3.28	3.15	3.03	2.90	2.78
THOMAS	GA	3.45	3.32	3.25	3.17	3.10	3.02
TIFT	GA	3.45	3.29	3.18	3.08	2.97	2.86
TOOMBS	GA	3.45	3.17	3.06	2.94	2.83	2.72
TOWNS	GA	3.10	2.70	2.56	2.43	2.29	2.16
TREUTLEN	GA	3.30	3.15	3.02	2.88	2.75	2.62
TROUP	GA	3.10	3.05	2.91	2.78	2.64	2.51
TURNER	GA	3.45	3.28	3.16	3.03	2.91	2.79
TWIGGS	GA	3.30	3.04	2.90	2.75	2.61	2.47
UNION	GA	3.10	2.70	2.57	2.45	2.32	2.19
UPSON	GA	3.10	3.05	2.91	2.78	2.64	2.51
WALKER	GA	2.80	2.64	2.51	2.39	2.26	2.13
WALTON	GA	3.10	2.95	2.82	2.68	2.55	2.42
WARE	GA	3.45	3.32	3.25	3.17	3.10	3.02
WARREN	GA	3.10	3.03	2.87	2.72	2.56	2.41
WASHINGTON	GA	3.30	3.04	2.90	2.75	2.61	2.47
WAYNE	GA	3.45	3.31	3.21	3.12	3.02	2.93
WEBSTER	GA	3.45	3.17	3.06	2.96	2.85	2.74
WHEELER	GA	3.45	3.16	3.05	2.93	2.82	2.70
WHITE	GA	3.10	2.84	2.70	2.55	2.41	2.27
WHITFIELD	GA	2.80	2.65	2.53	2.42	2.30	2.18
WILCOX	GA	3.45	3.17	3.05	2.94	2.82	2.71
WILKES	GA	3.10	2.94	2.79	2.65	2.50	2.36
WILKINSON	GA	3.30	3.03	2.89	2.74	2.60	2.45
WORTH	GA	3.45	3.29	3.18	3.06	2.95	2.84
ADAIR	IA	1.80	1.55	1.54	1.54	1.53	1.53
ADAMS	IA	1.80	1.55	1.55	1.54	1.54	1.54
ALLAMAKEE	IA	1.75	1.23	1.21	1.18	1.16	1.13
APPANOOSE	IA	1.80	1.54	1.53	1.51	1.50	1.49
AUDUBON	IA	1.80	1.54	1.53	1.53	1.52	1.51
BENTON	IA	1.80	1.48	1.48	1.47	1.47	1.47
BLACK HAWK	IA	1.75	1.37	1.36	1.36	1.35	1.34
BOONE	IA	1.80	1.53	1.51	1.49	1.47	1.45
BREMER	IA	1.75	1.33	1.31	1.29	1.28	1.26
BUCHANAN	IA	1.75	1.38	1.37	1.35	1.34	1.32
BUENA VISTA	IA	1.75	1.50	1.46	1.41	1.37	1.32
BUTLER	IA	1.75	1.38	1.37	1.35	1.34	1.32
CALHOUN	IA	1.75	1.52	1.49	1.46	1.43	1.40
CARROLL	IA	1.80	1.53	1.51	1.49	1.47	1.45
CASS	IA	1.80	1.71	1.67	1.62	1.58	1.54
CEDAR	IA	1.80	1.48	1.49	1.49	1.50	1.50
CERRO GORDO	IA	1.75	1.30	1.28	1.27	1.25	1.24
CHEROKEE	IA	1.75	1.66	1.57	1.48	1.39	1.30
CHICKASAW	IA	1.75	1.29	1.27	1.24	1.22	1.20
CLARKE	IA	1.80	1.54	1.54	1.53	1.53	1.52
CLAY	IA	1.75	1.22	1.24	1.26	1.27	1.29
CLAYTON	IA	1.75	1.29	1.24	1.20	1.16	1.12
CLINTON	IA	1.80	1.47	1.46	1.46	1.45	1.44
CRAWFORD	IA	1.80	1.69	1.63	1.56	1.50	1.44
DALLAS	IA	1.80	1.54	1.53	1.52	1.51	1.50
DAVIS	IA	1.80	1.54	1.52	1.51	1.49	1.48
DECATUR	IA	1.80	1.54	1.54	1.53	1.53	1.52
DELAWARE	IA	1.75	1.34	1.31	1.29	1.26	1.24
DES MOINES	IA	1.80	1.55	1.54	1.54	1.53	1.53
DICKINSON	IA	1.75	1.20	1.21	1.23	1.24	1.25
DUBUQUE	IA	1.75	1.34	1.31	1.29	1.26	1.24
EMMET	IA	1.75	1.22	1.22	1.23	1.24	1.25
FAYETTE	IA	1.75	1.33	1.29	1.25	1.20	1.16
FLOYD	IA	1.75	1.31	1.29	1.27	1.25	1.23
FRANKLIN	IA	1.75	1.35	1.35	1.34	1.34	1.33
FREMONT	IA	1.85	1.71	1.67	1.62	1.58	1.54
GREENE	IA	1.80	1.53	1.51	1.49	1.47	1.45
GRUNDY	IA	1.75	1.40	1.40	1.39	1.38	1.37
GUTHRIE	IA	1.80	1.54	1.53	1.52	1.51	1.50
HAMILTON	IA	1.75	1.42	1.41	1.41	1.40	1.39
HANCOCK	IA	1.75	1.33	1.32	1.31	1.29	1.28
HARDIN	IA	1.75	1.41	1.40	1.39	1.39	1.38
HARRISON	IA	1.80	1.70	1.65	1.60	1.55	1.50
HENRY	IA	1.80	1.54	1.53	1.52	1.51	1.50

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
HOWARD	IA	1.75	1.19	1.18	1.17	1.16	1.15
HUMBOLDT	IA	1.75	1.34	1.34	1.34	1.34	1.34
IDA	IA	1.75	1.67	1.60	1.52	1.45	1.37
IOWA	IA	1.80	1.49	1.49	1.50	1.50	1.51
JACKSON	IA	1.80	1.38	1.38	1.38	1.38	1.38
JASPER	IA	1.80	1.54	1.52	1.51	1.49	1.48
JEFFERSON	IA	1.80	1.54	1.53	1.51	1.50	1.49
JOHNSON	IA	1.80	1.49	1.49	1.50	1.50	1.51
JONES	IA	1.80	1.47	1.45	1.44	1.42	1.41
KEOKUK	IA	1.80	1.48	1.49	1.49	1.50	1.50
KOSSUTH	IA	1.75	1.22	1.23	1.25	1.26	1.28
LEE	IA	1.80	1.53	1.52	1.50	1.49	1.47
LINN	IA	1.80	1.48	1.49	1.49	1.50	1.50
LOUISA	IA	1.80	1.49	1.50	1.50	1.51	1.52
LUCAS	IA	1.80	1.54	1.53	1.53	1.52	1.51
LYON	IA	1.75	1.44	1.39	1.33	1.28	1.22
MADISON	IA	1.80	1.54	1.54	1.53	1.53	1.52
MAHASKA	IA	1.80	1.54	1.53	1.52	1.51	1.50
MARION	IA	1.80	1.54	1.53	1.52	1.51	1.50
MARSHALL	IA	1.80	1.47	1.47	1.46	1.46	1.45
MILLS	IA	1.85	1.71	1.67	1.64	1.60	1.56
MITCHELL	IA	1.75	1.20	1.19	1.19	1.18	1.18
MONONA	IA	1.80	1.68	1.61	1.54	1.47	1.40
MONROE	IA	1.80	1.54	1.53	1.51	1.50	1.49
MONTGOMERY	IA	1.80	1.71	1.67	1.64	1.60	1.56
MUSCATINE	IA	1.80	1.49	1.50	1.51	1.52	1.53
O'BRIEN	IA	1.75	1.45	1.41	1.36	1.32	1.27
OSCEOLA	IA	1.75	1.43	1.38	1.34	1.29	1.24
PAGE	IA	1.80	1.71	1.67	1.63	1.59	1.55
PALO ALTO	IA	1.75	1.27	1.27	1.28	1.28	1.29
PLYMOUTH	IA	1.75	1.50	1.44	1.38	1.32	1.26
POCAHONTAS	IA	1.75	1.30	1.31	1.32	1.33	1.34
POLK	IA	1.80	1.54	1.53	1.52	1.51	1.50
POTTAWATTAMIE	IA	1.85	1.71	1.67	1.64	1.60	1.56
POWESHIEK	IA	1.80	1.48	1.48	1.49	1.49	1.49
RINGGOLD	IA	1.80	1.55	1.54	1.54	1.53	1.53
SAC	IA	1.75	1.68	1.61	1.54	1.47	1.40
SCOTT	IA	1.80	1.49	1.50	1.52	1.53	1.54
SHELBY	IA	1.80	1.70	1.65	1.61	1.56	1.51
SIOUX	IA	1.75	1.65	1.55	1.44	1.34	1.24
STORY	IA	1.80	1.53	1.51	1.49	1.47	1.45
TAMA	IA	1.80	1.47	1.46	1.46	1.45	1.44
TAYLOR	IA	1.80	1.55	1.55	1.54	1.54	1.54
UNION	IA	1.80	1.55	1.54	1.54	1.53	1.53
VAN BUREN	IA	1.80	1.53	1.51	1.50	1.48	1.46
WAPELLO	IA	1.80	1.54	1.53	1.51	1.50	1.49
WARREN	IA	1.80	1.54	1.53	1.53	1.52	1.51
WASHINGTON	IA	1.80	1.49	1.49	1.50	1.50	1.51
WAYNE	IA	1.80	1.54	1.53	1.52	1.51	1.50
WEBSTER	IA	1.75	1.48	1.46	1.44	1.42	1.40
WINNEBAGO	IA	1.75	1.20	1.21	1.21	1.22	1.22
WINNESHIEK	IA	1.75	1.19	1.18	1.16	1.15	1.14
WOODBURY	IA	1.75	1.55	1.49	1.44	1.38	1.32
WORTH	IA	1.75	1.20	1.20	1.20	1.20	1.20
WRIGHT	IA	1.75	1.37	1.36	1.35	1.34	1.33
ADA	ID	1.60	1.31	1.21	1.12	1.02	0.93
ADAMS	ID	1.60	1.16	1.12	1.07	1.03	0.99
BANNOCK	ID	1.60	1.52	1.39	1.25	1.12	0.99
BEAR LAKE	ID	1.60	1.52	1.39	1.27	1.14	1.01
BENEWAH	ID	1.90	1.72	1.54	1.35	1.17	0.99
BINGHAM	ID	1.60	1.47	1.34	1.20	1.07	0.94
BLAINE	ID	1.60	1.39	1.28	1.17	1.06	0.95
BOISE	ID	1.60	1.39	1.28	1.16	1.05	0.94
BONNER	ID	1.90	1.72	1.53	1.35	1.16	0.98
BONNEVILLE	ID	1.60	1.46	1.32	1.19	1.05	0.91
BOUNDARY	ID	1.90	1.72	1.55	1.37	1.20	1.02
BUTTE	ID	1.60	1.39	1.27	1.16	1.04	0.93
CAMAS	ID	1.60	1.39	1.28	1.16	1.05	0.94
CANYON	ID	1.60	1.27	1.19	1.10	1.02	0.94
CARIBOU	ID	1.60	1.51	1.38	1.24	1.11	0.97

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CASSIA	ID	1.60	1.52	1.38	1.25	1.11	0.98
CLARK	ID	1.60	1.42	1.29	1.15	1.02	0.89
CLEARWATER	ID	1.60	1.73	1.57	1.40	1.24	1.07
CUSTER	ID	1.60	1.39	1.28	1.18	1.07	0.96
ELMORE	ID	1.60	1.35	1.24	1.14	1.03	0.93
FRANKLIN	ID	1.60	1.52	1.40	1.27	1.15	1.02
FREMONT	ID	1.60	1.46	1.31	1.17	1.02	0.88
GEM	ID	1.60	1.27	1.19	1.10	1.02	0.94
GOODING	ID	1.60	1.39	1.28	1.17	1.06	0.95
IDAHO	ID	1.60	1.61	1.47	1.34	1.20	1.06
JEFFERSON	ID	1.60	1.46	1.32	1.18	1.04	0.90
JEROME	ID	1.60	1.39	1.28	1.18	1.07	0.96
KOOTENAI	ID	1.90	1.71	1.53	1.34	1.16	0.97
LATAH	ID	1.90	1.72	1.54	1.35	1.17	0.99
LEMHI	ID	1.60	1.40	1.30	1.20	1.10	1.00
LEWIS	ID	1.60	1.61	1.46	1.32	1.17	1.03
LINCOLN	ID	1.60	1.47	1.34	1.21	1.08	0.95
MADISON	ID	1.60	1.46	1.32	1.17	1.03	0.89
MINIDOKA	ID	1.60	1.47	1.35	1.22	1.10	0.97
NEZ PERCE	ID	1.60	1.60	1.45	1.31	1.16	1.01
ONEIDA	ID	1.60	1.52	1.39	1.27	1.14	1.01
OWYHEE	ID	1.60	1.29	1.21	1.12	1.04	0.95
PAYETTE	ID	1.60	1.23	1.16	1.09	1.02	0.95
POWER	ID	1.60	1.52	1.38	1.25	1.11	0.98
SHOSHONE	ID	1.90	1.73	1.56	1.39	1.22	1.05
TETON	ID	1.60	1.36	1.25	1.13	1.02	0.90
TWIN FALLS	ID	1.60	1.45	1.33	1.20	1.08	0.96
VALLEY	ID	1.60	1.40	1.30	1.19	1.09	0.99
WASHINGTON	ID	1.60	1.22	1.16	1.09	1.03	0.96
ADAMS	IL	1.80	1.68	1.61	1.54	1.47	1.40
ALEXANDER	IL	2.20	2.03	1.97	1.90	1.84	1.77
BOND	IL	2.00	1.85	1.78	1.70	1.63	1.56
BOONE	IL	1.75	1.32	1.33	1.35	1.36	1.37
BROWN	IL	1.80	1.70	1.66	1.61	1.57	1.52
BUREAU	IL	1.80	1.61	1.62	1.62	1.63	1.63
CALHOUN	IL	2.00	1.86	1.79	1.73	1.66	1.60
CARROLL	IL	1.80	1.78	1.68	1.58	1.48	1.38
CASS	IL	1.80	1.61	1.61	1.62	1.62	1.62
CHAMPAIGN	IL	1.80	1.72	1.69	1.67	1.64	1.61
CHRISTIAN	IL	2.00	1.86	1.80	1.75	1.69	1.63
CLARK	IL	2.00	1.84	1.76	1.68	1.60	1.52
CLAY	IL	2.00	1.84	1.75	1.67	1.58	1.50
CLINTON	IL	2.00	1.84	1.77	1.69	1.62	1.54
COLES	IL	2.00	1.85	1.77	1.70	1.62	1.55
COOK	IL	1.80	1.45	1.50	1.55	1.60	1.65
CRAWFORD	IL	2.00	1.84	1.76	1.67	1.59	1.51
CUMBERLAND	IL	2.00	1.84	1.76	1.69	1.61	1.53
DE KALB	IL	1.80	1.35	1.39	1.42	1.46	1.50
DE WITT	IL	1.80	1.74	1.74	1.73	1.73	1.72
DOUGLAS	IL	2.00	1.72	1.68	1.65	1.61	1.58
DU PAGE	IL	1.80	1.44	1.49	1.53	1.58	1.62
EDGAR	IL	2.00	1.71	1.67	1.63	1.59	1.55
EDWARDS	IL	2.20	1.85	1.77	1.70	1.62	1.55
EFFINGHAM	IL	2.00	1.84	1.76	1.69	1.61	1.53
FAYETTE	IL	2.00	1.84	1.77	1.69	1.62	1.54
FORD	IL	1.80	1.62	1.63	1.65	1.66	1.67
FRANKLIN	IL	2.20	1.93	1.85	1.77	1.69	1.61
FULTON	IL	1.80	1.63	1.65	1.66	1.68	1.70
GALLATIN	IL	2.20	2.01	1.93	1.84	1.76	1.67
GREENE	IL	2.00	1.85	1.79	1.72	1.66	1.59
GRUNDY	IL	1.80	1.62	1.63	1.64	1.65	1.66
HAMILTON	IL	2.20	1.93	1.85	1.76	1.68	1.60
HANCOCK	IL	1.80	1.69	1.64	1.58	1.53	1.47
HARDIN	IL	2.20	2.02	1.94	1.87	1.79	1.71
HENDERSON	IL	1.80	1.55	1.55	1.56	1.56	1.56
HENRY	IL	1.80	1.51	1.53	1.56	1.58	1.61
IROQUOIS	IL	1.80	1.61	1.61	1.60	1.60	1.60
JACKSON	IL	2.20	1.94	1.86	1.79	1.71	1.64
JASPER	IL	2.00	1.84	1.75	1.67	1.58	1.50
JEFFERSON	IL	2.00	1.85	1.78	1.70	1.63	1.56

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
JERSEY	IL	2.00	1.86	1.80	1.73	1.67	1.61
JO DAVIESS	IL	1.75	1.50	1.44	1.39	1.33	1.28
JOHNSON	IL	2.20	2.02	1.95	1.87	1.80	1.72
KANE	IL	1.80	1.43	1.46	1.50	1.53	1.56
KANKAKEE	IL	1.80	1.61	1.61	1.62	1.62	1.62
KENDALL	IL	1.80	1.44	1.48	1.53	1.57	1.61
KNOX	IL	1.80	1.62	1.64	1.65	1.67	1.68
LA SALLE	IL	1.80	1.43	1.46	1.49	1.52	1.55
LAKE	IL	1.80	1.62	1.63	1.65	1.66	1.67
LAWRENCE	IL	2.00	1.84	1.76	1.67	1.59	1.51
LEE	IL	1.80	1.31	1.35	1.40	1.45	1.50
LIVINGSTON	IL	1.80	1.63	1.65	1.66	1.68	1.70
LOGAN	IL	1.80	1.75	1.75	1.75	1.75	1.75
MACON	IL	1.80	1.60	1.59	1.59	1.58	1.57
MACOUPIN	IL	1.80	1.37	1.40	1.42	1.45	1.48
MADISON	IL	1.80	1.75	1.75	1.74	1.74	1.74
MARION	IL	1.80	1.73	1.71	1.70	1.68	1.66
MARSHALL	IL	2.00	1.86	1.80	1.73	1.67	1.61
MASON	IL	2.00	1.93	1.85	1.78	1.70	1.62
MASSAC	IL	2.00	1.84	1.76	1.68	1.60	1.52
MCDONOUGH	IL	1.80	1.64	1.67	1.70	1.73	1.76
MCHENRY	IL	1.80	1.63	1.65	1.68	1.70	1.72
MCLEAN	IL	2.20	2.03	1.96	1.89	1.82	1.75
MENARD	IL	1.80	1.74	1.73	1.71	1.70	1.69
MERCER	IL	1.80	1.50	1.52	1.54	1.56	1.58
MONROE	IL	2.00	1.94	1.87	1.79	1.72	1.65
MONTGOMERY	IL	2.00	1.86	1.79	1.73	1.66	1.60
MORGAN	IL	1.80	1.72	1.69	1.67	1.64	1.61
MOULTRIE	IL	2.00	1.72	1.69	1.66	1.63	1.60
OGLE	IL	1.80	1.28	1.31	1.34	1.36	1.39
PEORIA	IL	1.80	1.65	1.69	1.74	1.78	1.82
PERRY	IL	2.00	1.93	1.85	1.76	1.68	1.60
PIATT	IL	1.80	1.73	1.71	1.69	1.67	1.65
PIKE	IL	1.80	1.70	1.66	1.61	1.57	1.52
POPE	IL	2.20	2.02	1.95	1.87	1.80	1.72
PULASKI	IL	2.20	2.03	1.96	1.89	1.82	1.75
PUTNAM	IL	1.80	1.63	1.65	1.66	1.68	1.70
RANDOLPH	IL	2.00	1.93	1.86	1.78	1.71	1.63
RICHLAND	IL	2.00	1.83	1.74	1.66	1.57	1.48
ROCK ISLAND	IL	1.80	1.50	1.52	1.53	1.55	1.57
SALINE	IL	2.20	1.94	1.87	1.80	1.73	1.66
SANGAMON	IL	1.80	1.73	1.71	1.69	1.67	1.65
SCHUYLER	IL	1.80	1.71	1.68	1.64	1.61	1.57
SCOTT	IL	1.80	1.71	1.68	1.64	1.61	1.57
SHELBY	IL	2.00	1.85	1.78	1.71	1.64	1.57
ST. CLAIR	IL	2.00	1.94	1.87	1.79	1.72	1.65
STARK	IL	1.80	1.63	1.66	1.68	1.71	1.73
STEPHENSON	IL	1.75	1.25	1.26	1.27	1.28	1.29
TAZEWELL	IL	1.80	1.66	1.70	1.75	1.79	1.84
UNION	IL	2.20	2.02	1.94	1.87	1.79	1.71
VERMILION	IL	1.80	1.72	1.68	1.65	1.61	1.58
WABASH	IL	2.20	1.85	1.78	1.70	1.63	1.56
WARREN	IL	1.80	1.61	1.61	1.60	1.60	1.60
WASHINGTON	IL	2.00	1.85	1.77	1.70	1.62	1.55
WAYNE	IL	2.20	1.84	1.77	1.69	1.62	1.54
WHITE	IL	2.20	1.93	1.85	1.78	1.70	1.62
WHITESIDE	IL	1.80	1.25	1.30	1.36	1.42	1.48
WILL	IL	1.80	1.45	1.50	1.54	1.59	1.64
WILLIAMSON	IL	2.20	1.94	1.87	1.79	1.72	1.65
WINNEBAGO	IL	1.75	1.31	1.31	1.32	1.32	1.32
WOODFORD	IL	1.80	1.65	1.69	1.74	1.78	1.82
ADAMS	IN	1.80	1.71	1.62	1.52	1.43	1.34
ALLEN	IN	1.80	1.71	1.61	1.52	1.42	1.33
BARTHOLOMEW	IN	2.20	1.82	1.73	1.65	1.56	1.48
BENTON	IN	1.80	1.75	1.71	1.66	1.62	1.57
BLACKFORD	IN	1.80	1.72	1.64	1.56	1.48	1.40
BOONE	IN	2.00	1.83	1.75	1.68	1.60	1.53
BROWN	IN	2.20	1.82	1.74	1.66	1.58	1.50
CARROLL	IN	1.80	1.74	1.68	1.61	1.55	1.49
CASS	IN	1.80	1.73	1.66	1.58	1.51	1.44

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CLARK	IN	2.20	1.97	1.83	1.68	1.54	1.40
CLAY	IN	2.00	1.82	1.75	1.67	1.60	1.52
CLINTON	IN	1.80	1.82	1.74	1.67	1.59	1.51
CRAWFORD	IN	2.20	1.99	1.86	1.74	1.61	1.49
DAVIESS	IN	2.20	1.99	1.87	1.76	1.64	1.52
DE KALB	IN	2.20	1.98	1.85	1.71	1.58	1.45
DEARBORN	IN	2.20	1.81	1.73	1.64	1.56	1.47
DECATUR	IN	1.80	1.62	1.54	1.45	1.37	1.29
DELAWARE	IN	2.00	1.81	1.72	1.63	1.54	1.45
DUBOIS	IN	2.20	1.99	1.87	1.76	1.64	1.52
ELKHART	IN	1.80	1.61	1.53	1.44	1.36	1.27
FAYETTE	IN	2.00	1.81	1.72	1.64	1.55	1.46
FLOYD	IN	2.20	1.97	1.83	1.69	1.55	1.41
FOUNTAIN	IN	1.80	1.83	1.76	1.69	1.62	1.55
FRANKLIN	IN	2.00	1.81	1.72	1.64	1.55	1.46
FULTON	IN	1.80	1.72	1.64	1.56	1.48	1.40
GIBSON	IN	2.20	2.01	1.90	1.80	1.69	1.59
GRANT	IN	1.80	1.80	1.70	1.61	1.51	1.41
GREENE	IN	2.20	1.82	1.74	1.67	1.59	1.51
HAMILTON	IN	2.00	1.82	1.74	1.67	1.59	1.51
HANCOCK	IN	2.00	1.82	1.74	1.66	1.58	1.50
HARRISON	IN	2.20	1.98	1.84	1.71	1.57	1.44
HENDRICKS	IN	2.00	1.83	1.76	1.68	1.61	1.54
HENRY	IN	2.00	1.81	1.73	1.64	1.56	1.47
HOWARD	IN	1.80	1.81	1.72	1.64	1.55	1.46
HUNTINGTON	IN	1.80	1.71	1.62	1.54	1.45	1.36
JACKSON	IN	2.20	1.89	1.78	1.68	1.57	1.46
JASPER	IN	1.80	1.66	1.63	1.59	1.56	1.52
JAY	IN	1.80	1.72	1.64	1.55	1.47	1.39
JEFFERSON	IN	2.20	1.89	1.77	1.66	1.54	1.43
JENNINGS	IN	2.20	1.89	1.78	1.67	1.56	1.45
JOHNSON	IN	2.00	1.82	1.75	1.67	1.60	1.52
KNOX	IN	2.20	1.99	1.87	1.76	1.64	1.52
KOSCIUSKO	IN	1.80	1.61	1.52	1.42	1.33	1.24
LA PORTE	IN	1.80	1.61	1.52	1.44	1.35	1.26
LAGRANGE	IN	1.80	1.55	1.55	1.56	1.56	1.56
LAKE	IN	1.80	1.65	1.60	1.54	1.49	1.44
LAWRENCE	IN	2.20	1.90	1.80	1.69	1.59	1.49
MADISON	IN	2.00	1.82	1.73	1.65	1.56	1.48
MARION	IN	2.00	1.83	1.75	1.68	1.60	1.53
MARSHALL	IN	1.80	1.63	1.56	1.49	1.42	1.35
MARTIN	IN	2.20	1.99	1.87	1.74	1.62	1.50
MIAMI	IN	1.80	1.72	1.64	1.56	1.48	1.40
MONROE	IN	2.20	1.82	1.74	1.66	1.58	1.50
MONTGOMERY	IN	2.00	1.83	1.76	1.68	1.61	1.54
MORGAN	IN	2.00	1.83	1.75	1.68	1.60	1.53
NEWTON	IN	1.80	1.67	1.64	1.62	1.59	1.56
NOBLE	IN	1.80	1.62	1.53	1.45	1.36	1.28
OHIO	IN	2.20	1.98	1.84	1.71	1.57	1.44
ORANGE	IN	2.20	1.99	1.86	1.74	1.61	1.49
OWEN	IN	2.00	1.82	1.75	1.67	1.60	1.52
PARKE	IN	2.00	1.83	1.76	1.68	1.61	1.54
PERRY	IN	2.20	1.99	1.87	1.75	1.63	1.51
PIKE	IN	2.20	2.00	1.89	1.78	1.67	1.56
PORTER	IN	1.80	1.54	1.53	1.51	1.50	1.49
POSEY	IN	2.20	2.02	1.92	1.83	1.73	1.64
PULASKI	IN	1.80	1.65	1.60	1.56	1.51	1.46
PUTNAM	IN	2.00	1.83	1.75	1.68	1.60	1.53
RANDOLPH	IN	2.00	1.80	1.71	1.61	1.52	1.42
RIPLEY	IN	2.20	1.89	1.78	1.67	1.56	1.45
RUSH	IN	2.00	1.82	1.73	1.65	1.56	1.48
SCOTT	IN	1.80	1.63	1.55	1.48	1.40	1.33
SHELBY	IN	2.20	1.89	1.77	1.66	1.54	1.43
SPENCER	IN	2.00	1.82	1.74	1.66	1.58	1.50
ST. JOSEPH	IN	2.20	2.00	1.90	1.79	1.69	1.58
STARKE	IN	1.80	1.65	1.60	1.54	1.49	1.44
STEUBEN	IN	1.80	1.62	1.53	1.45	1.36	1.28
SULLIVAN	IN	2.20	1.82	1.74	1.67	1.59	1.51
SWITZERLAND	IN	2.20	1.89	1.78	1.66	1.55	1.44
TIPPECANOE	IN	1.80	1.83	1.75	1.68	1.60	1.53

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TIPTON	IN	1.80	1.82	1.73	1.65	1.56	1.48
UNION	IN	2.00	1.81	1.72	1.63	1.54	1.45
VANDERBURGH	IN	2.20	2.01	1.92	1.82	1.73	1.63
VERMILLION	IN	2.00	1.83	1.76	1.69	1.62	1.55
VIGO	IN	2.00	1.83	1.75	1.68	1.60	1.53
WABASH	IN	1.80	1.71	1.63	1.54	1.46	1.37
WARREN	IN	1.80	1.83	1.76	1.70	1.63	1.56
WARRICK	IN	2.20	2.01	1.91	1.82	1.72	1.62
WASHINGTON	IN	2.20	1.98	1.85	1.71	1.58	1.45
WAYNE	IN	2.00	1.81	1.72	1.63	1.54	1.45
WELLS	IN	1.80	1.71	1.63	1.54	1.46	1.37
WHITE	IN	1.80	1.74	1.68	1.61	1.55	1.49
WHITLEY	IN	1.80	1.62	1.54	1.46	1.38	1.30
ALLEN	KS	2.20	2.11	1.92	1.72	1.53	1.34
ANDERSON	KS	2.00	1.81	1.70	1.58	1.47	1.36
ATCHISON	KS	2.00	1.83	1.74	1.64	1.55	1.46
BARBER	KS	2.20	2.11	1.92	1.72	1.53	1.34
BARTON	KS	2.20	2.10	1.89	1.69	1.48	1.28
BOURBON	KS	2.20	2.11	1.92	1.72	1.53	1.34
BROWN	KS	2.00	1.83	1.74	1.64	1.55	1.46
BUTLER	KS	2.20	2.10	1.90	1.71	1.51	1.31
CHASE	KS	2.20	1.80	1.69	1.57	1.46	1.34
CHAUTAUQUA	KS	2.20	2.11	1.92	1.74	1.55	1.36
CHEROKEE	KS	2.20	2.10	1.90	1.70	1.50	1.30
CHEYENNE	KS	2.20	2.15	1.91	1.66	1.42	1.17
CLARK	KS	2.20	2.27	2.04	1.81	1.58	1.35
CLAY	KS	2.00	1.80	1.69	1.57	1.46	1.34
CLOUD	KS	2.00	1.80	1.68	1.57	1.45	1.33
COFFEY	KS	2.00	1.81	1.69	1.58	1.46	1.35
COMANCHE	KS	2.20	2.11	1.92	1.73	1.54	1.35
COWLEY	KS	2.20	2.11	1.92	1.72	1.53	1.34
CRAWFORD	KS	2.20	2.10	1.90	1.71	1.51	1.31
DECATUR	KS	2.00	1.91	1.73	1.54	1.36	1.17
DICKINSON	KS	2.00	1.80	1.68	1.56	1.44	1.32
DONIPHAN	KS	2.00	1.83	1.74	1.66	1.57	1.48
DOUGLAS	KS	2.00	1.82	1.72	1.62	1.52	1.42
EDWARDS	KS	2.20	2.10	1.90	1.70	1.50	1.30
ELK	KS	2.20	2.11	1.92	1.72	1.53	1.34
ELLIS	KS	2.00	2.09	1.88	1.68	1.47	1.26
ELLSWORTH	KS	2.00	2.10	1.89	1.69	1.48	1.28
FINNEY	KS	2.20	2.26	2.02	1.79	1.55	1.31
FORD	KS	2.20	2.27	2.03	1.80	1.56	1.33
FRANKLIN	KS	2.00	1.81	1.71	1.60	1.50	1.39
GEARY	KS	2.00	1.80	1.69	1.57	1.46	1.34
GOVE	KS	2.20	2.25	2.00	1.74	1.49	1.24
GRAHAM	KS	2.00	1.92	1.75	1.57	1.40	1.22
GRANT	KS	2.20	2.27	2.04	1.82	1.59	1.36
GRAY	KS	2.20	2.27	2.03	1.80	1.56	1.33
GREELEY	KS	2.20	2.26	2.01	1.77	1.52	1.28
GREENWOOD	KS	2.20	2.11	1.91	1.72	1.52	1.33
HAMILTON	KS	2.20	2.27	2.03	1.80	1.56	1.33
HARPER	KS	2.20	2.11	1.91	1.72	1.52	1.33
HARVEY	KS	2.20	2.10	1.90	1.69	1.49	1.29
HASKELL	KS	2.20	2.27	2.03	1.80	1.56	1.33
HODGEMAN	KS	2.20	2.26	2.02	1.77	1.53	1.29
JACKSON	KS	2.00	1.82	1.72	1.63	1.53	1.43
JEFFERSON	KS	2.00	1.82	1.72	1.63	1.53	1.43
JEWELL	KS	2.00	1.93	1.76	1.60	1.43	1.26
JOHNSON	KS	2.00	1.82	1.73	1.63	1.54	1.44
KEARNY	KS	2.20	2.27	2.03	1.80	1.56	1.33
KINGMAN	KS	2.20	2.10	1.90	1.70	1.50	1.30
KIOWA	KS	2.20	2.10	1.91	1.71	1.52	1.32
LABETTE	KS	2.20	2.10	1.91	1.71	1.52	1.32
LANE	KS	2.20	2.25	2.01	1.76	1.52	1.27
LEAVENWORTH	KS	2.00	1.83	1.73	1.64	1.54	1.45
LINCOLN	KS	2.00	2.10	1.90	1.69	1.49	1.29
LINN	KS	2.00	1.81	1.71	1.60	1.50	1.39
LOGAN	KS	2.20	2.13	1.91	1.68	1.46	1.24
LYON	KS	2.00	1.81	1.69	1.58	1.46	1.35
MARION	KS	2.20	2.10	1.90	1.69	1.49	1.29

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MARSHALL	KS	2.20	2.10	1.90	1.71	1.51	1.31
MCPHERSON	KS	2.00	1.81	1.71	1.60	1.50	1.39
MEADE	KS	2.20	2.27	2.04	1.82	1.59	1.36
MIAMI	KS	2.00	1.82	1.72	1.61	1.51	1.41
MITCHELL	KS	2.00	1.94	1.78	1.61	1.45	1.29
MONTGOMERY	KS	2.20	2.11	1.92	1.73	1.54	1.35
MORRIS	KS	2.00	1.80	1.69	1.57	1.46	1.34
MORTON	KS	2.20	2.28	2.06	1.84	1.62	1.40
NEMAHA	KS	2.00	1.82	1.73	1.63	1.54	1.44
NEOSHO	KS	2.20	2.11	1.91	1.72	1.52	1.33
NESS	KS	2.20	2.25	2.01	1.76	1.52	1.27
NORTON	KS	2.00	1.92	1.74	1.55	1.37	1.19
OSAGE	KS	2.00	1.81	1.70	1.60	1.49	1.38
OSBORNE	KS	2.00	1.93	1.76	1.59	1.42	1.25
OTTAWA	KS	2.00	1.80	1.68	1.55	1.43	1.31
PAWNEE	KS	2.20	2.10	1.90	1.69	1.49	1.29
PHILLIPS	KS	2.00	1.92	1.74	1.56	1.38	1.20
POTTAWATOMIE	KS	2.00	1.81	1.71	1.60	1.50	1.39
PRATT	KS	2.20	2.10	1.90	1.71	1.51	1.31
RAWLINS	KS	2.00	1.91	1.72	1.53	1.34	1.15
RENO	KS	2.20	2.10	1.90	1.69	1.49	1.29
REPUBLIC	KS	2.00	1.80	1.68	1.55	1.43	1.31
RICE	KS	2.20	2.10	1.89	1.69	1.48	1.28
RILEY	KS	2.00	1.81	1.70	1.59	1.48	1.37
ROOKS	KS	2.00	1.93	1.75	1.58	1.40	1.23
RUSH	KS	2.20	2.09	1.89	1.68	1.48	1.27
RUSSELL	KS	2.00	2.09	1.89	1.68	1.48	1.27
SALINE	KS	2.00	1.80	1.67	1.55	1.42	1.30
SCOTT	KS	2.20	2.26	2.01	1.77	1.52	1.28
SEDGWICK	KS	2.20	2.10	1.90	1.69	1.49	1.29
SEWARD	KS	2.20	2.27	2.05	1.82	1.60	1.37
SHAWNEE	KS	2.00	1.82	1.71	1.61	1.50	1.40
SHERIDAN	KS	2.00	1.92	1.74	1.56	1.38	1.20
SHERMAN	KS	2.20	2.16	1.91	1.67	1.42	1.18
SMITH	KS	2.00	1.93	1.75	1.58	1.40	1.23
STAFFORD	KS	2.20	2.10	1.90	1.69	1.49	1.29
STANTON	KS	2.20	2.27	2.05	1.82	1.60	1.37
STEVENS	KS	2.20	2.27	2.05	1.82	1.60	1.37
SUMNER	KS	2.20	2.11	1.91	1.72	1.52	1.33
THOMAS	KS	2.00	1.92	1.74	1.55	1.37	1.19
TREGO	KS	2.20	2.25	2.00	1.75	1.50	1.25
WABAUNSEE	KS	2.00	2.20	1.99	1.79	1.58	1.38
WALLACE	KS	2.20	2.25	2.00	1.74	1.49	1.24
WASHINGTON	KS	2.00	1.81	1.70	1.58	1.47	1.36
WICHITA	KS	2.20	2.26	2.01	1.77	1.52	1.28
WILSON	KS	2.20	2.11	1.91	1.72	1.52	1.33
WOODSON	KS	2.20	2.11	1.92	1.72	1.53	1.34
WYANDOTTE	KS	2.00	1.83	1.73	1.64	1.54	1.45
ADAIR	KY	2.40	1.98	1.85	1.72	1.59	1.46
ALLEN	KY	2.40	2.12	1.98	1.85	1.71	1.57
ANDERSON	KY	2.20	1.97	1.83	1.69	1.55	1.41
BALLARD	KY	2.40	2.27	2.15	2.03	1.91	1.79
BARREN	KY	2.40	2.11	1.97	1.82	1.68	1.53
BATH	KY	2.20	2.00	1.89	1.78	1.67	1.56
BELL	KY	2.40	2.30	2.15	1.99	1.84	1.69
BOONE	KY	2.20	1.98	1.85	1.71	1.58	1.45
BOURBON	KY	2.20	1.99	1.86	1.74	1.61	1.49
BOYD	KY	2.20	2.02	1.93	1.85	1.76	1.67
BOYLE	KY	2.20	1.97	1.83	1.69	1.55	1.41
BRACKEN	KY	2.20	1.99	1.87	1.74	1.62	1.50
BREATHITT	KY	2.20	2.28	2.11	1.94	1.77	1.60
BRECKINRIDGE	KY	2.20	1.99	1.87	1.74	1.62	1.50
BULLITT	KY	2.20	1.97	1.83	1.69	1.55	1.41
BUTLER	KY	2.40	2.00	1.90	1.79	1.69	1.58
CALDWELL	KY	2.40	2.15	2.05	1.94	1.84	1.73
CALLOWAY	KY	2.40	2.28	2.18	2.07	1.97	1.86
CAMPBELL	KY	2.20	1.98	1.85	1.72	1.59	1.46
CARLISLE	KY	2.40	2.28	2.17	2.05	1.94	1.83
CARROLL	KY	2.20	1.97	1.84	1.70	1.57	1.43
CARTER	KY	2.20	2.01	1.92	1.82	1.73	1.63

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CASEY	KY	2.40	1.97	1.83	1.69	1.55	1.41
CHRISTIAN	KY	2.40	2.15	2.04	1.92	1.81	1.70
CLARK	KY	2.20	1.99	1.87	1.74	1.62	1.50
CLAY	KY	2.40	2.28	2.11	1.93	1.76	1.59
CLINTON	KY	2.40	2.00	1.89	1.78	1.67	1.56
CRITTENDEN	KY	2.40	2.15	2.04	1.94	1.83	1.72
CUMBERLAND	KY	2.40	2.00	1.89	1.77	1.66	1.55
DAVIESS	KY	2.20	2.01	1.91	1.81	1.71	1.61
EDMONSON	KY	2.40	1.99	1.87	1.76	1.64	1.52
ELLIOTT	KY	2.20	2.01	1.92	1.82	1.73	1.63
ESTILL	KY	2.20	1.99	1.87	1.76	1.64	1.52
FAYETTE	KY	2.20	1.98	1.85	1.72	1.59	1.46
FLEMING	KY	2.20	2.00	1.89	1.77	1.66	1.55
FLOYD	KY	2.20	2.09	1.98	1.88	1.77	1.67
FRANKLIN	KY	2.20	1.97	1.84	1.70	1.57	1.43
FULTON	KY	2.40	2.29	2.19	2.10	2.00	1.90
GALLATIN	KY	2.20	1.98	1.84	1.71	1.57	1.44
GARRARD	KY	2.20	1.97	1.84	1.70	1.57	1.43
GRANT	KY	2.20	1.98	1.85	1.71	1.58	1.45
GRAVES	KY	2.40	2.28	2.17	2.07	1.96	1.85
GRAYSON	KY	2.40	1.99	1.87	1.75	1.63	1.51
GREEN	KY	2.40	1.98	1.85	1.71	1.58	1.45
GREENUP	KY	2.20	2.01	1.92	1.82	1.73	1.63
HANCOCK	KY	2.20	2.00	1.89	1.77	1.66	1.55
HARDIN	KY	2.20	1.98	1.85	1.72	1.59	1.46
HARLAN	KY	2.40	2.30	2.15	2.00	1.85	1.70
HARRISON	KY	2.20	1.98	1.86	1.73	1.61	1.48
HART	KY	2.40	1.98	1.86	1.73	1.61	1.48
HENDERSON	KY	2.20	2.02	1.92	1.83	1.73	1.64
HENRY	KY	2.20	1.97	1.83	1.70	1.56	1.42
HICKMAN	KY	2.40	2.28	2.18	2.07	1.97	1.86
HOPKINS	KY	2.40	2.15	2.03	1.92	1.80	1.69
JACKSON	KY	2.20	2.26	2.07	1.89	1.70	1.51
JEFFERSON	KY	2.20	1.97	1.82	1.68	1.53	1.39
JESSAMINE	KY	2.20	1.98	1.85	1.71	1.58	1.45
JOHNSON	KY	2.20	2.08	1.97	1.87	1.76	1.65
KENTON	KY	2.20	1.98	1.85	1.72	1.59	1.46
KNOTT	KY	2.40	2.29	2.14	1.98	1.83	1.67
KNOX	KY	2.40	2.28	2.11	1.95	1.78	1.61
LARUE	KY	2.20	1.98	1.84	1.71	1.57	1.44
LAUREL	KY	2.40	2.27	2.08	1.90	1.71	1.53
LAWRENCE	KY	2.20	2.09	1.98	1.88	1.77	1.67
LEE	KY	2.20	2.27	2.09	1.91	1.73	1.55
LESLIE	KY	2.40	2.29	2.13	1.98	1.82	1.66
LETCHER	KY	2.40	2.30	2.15	1.99	1.84	1.69
LEWIS	KY	2.20	2.00	1.90	1.79	1.69	1.58
LINCOLN	KY	2.20	1.97	1.83	1.70	1.56	1.42
LIVINGSTON	KY	2.40	2.26	2.13	2.01	1.88	1.75
LOGAN	KY	2.40	2.13	2.00	1.88	1.75	1.62
LYON	KY	2.40	2.16	2.06	1.97	1.87	1.77
MADISON	KY	2.40	2.27	2.15	2.03	1.91	1.79
MAGOFFIN	KY	2.40	2.27	2.09	1.92	1.74	1.56
MARION	KY	2.20	2.02	1.92	1.83	1.73	1.64
MARSHALL	KY	2.20	1.98	1.85	1.73	1.60	1.47
MARTIN	KY	2.20	2.08	1.97	1.85	1.74	1.63
MASON	KY	2.20	1.97	1.83	1.70	1.56	1.42
MCCRACKEN	KY	2.40	2.27	2.15	2.04	1.92	1.80
MCCREARY	KY	2.20	2.09	1.99	1.89	1.79	1.69
MCLEAN	KY	2.20	1.99	1.88	1.76	1.65	1.53
MEADE	KY	2.20	1.98	1.85	1.73	1.60	1.47
MENIFEE	KY	2.20	2.00	1.89	1.79	1.68	1.57
MERCER	KY	2.20	1.97	1.83	1.69	1.55	1.41
METCALFE	KY	2.40	1.99	1.87	1.74	1.62	1.50
MONROE	KY	2.40	2.00	1.89	1.77	1.66	1.55
MONTGOMERY	KY	2.20	1.99	1.88	1.76	1.65	1.53
MORGAN	KY	2.20	2.07	1.96	1.84	1.73	1.61
MUHLENBERG	KY	2.40	2.14	2.01	1.89	1.76	1.64
NELSON	KY	2.20	1.97	1.83	1.70	1.56	1.42
NICHOLAS	KY	2.20	1.99	1.87	1.76	1.64	1.52
OHIO	KY	2.40	2.01	1.90	1.80	1.69	1.59

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
OLDHAM	KY	2.20	1.97	1.83	1.68	1.54	1.40
OWEN	KY	2.20	1.98	1.84	1.71	1.57	1.44
OWSLEY	KY	2.20	2.27	2.10	1.92	1.75	1.57
PENDLETON	KY	2.20	1.98	1.86	1.73	1.61	1.48
PERRY	KY	2.40	2.29	2.13	1.97	1.81	1.65
PIKE	KY	2.40	2.09	1.99	1.89	1.79	1.69
POWELL	KY	2.20	2.00	1.88	1.77	1.65	1.54
PULASKI	KY	2.40	2.24	2.03	1.83	1.62	1.41
ROBERTSON	KY	2.20	1.99	1.87	1.74	1.62	1.50
ROCKCASTLE	KY	2.20	2.25	2.05	1.86	1.66	1.46
ROWAN	KY	2.20	2.01	1.90	1.80	1.69	1.59
RUSSELL	KY	2.40	1.98	1.85	1.73	1.60	1.47
SCOTT	KY	2.20	1.98	1.85	1.71	1.58	1.45
SHELBY	KY	2.20	1.97	1.83	1.68	1.54	1.40
SIMPSON	KY	2.40	2.01	1.91	1.80	1.70	1.60
SPENCER	KY	2.20	1.97	1.83	1.68	1.54	1.40
TAYLOR	KY	2.40	1.97	1.84	1.70	1.57	1.43
TODD	KY	2.40	2.14	2.02	1.90	1.78	1.66
TRIGG	KY	2.40	2.16	2.07	1.97	1.88	1.78
TRIMBLE	KY	2.20	1.97	1.83	1.70	1.56	1.42
UNION	KY	2.20	2.02	1.94	1.85	1.77	1.68
WARREN	KY	2.40	2.00	1.89	1.78	1.67	1.56
WASHINGTON	KY	2.20	1.97	1.83	1.69	1.55	1.41
WAYNE	KY	2.40	1.99	1.88	1.76	1.65	1.53
WEBSTER	KY	2.40	2.02	1.94	1.85	1.77	1.68
WHITLEY	KY	2.40	2.28	2.11	1.94	1.77	1.60
WOLFE	KY	2.20	2.07	1.95	1.83	1.71	1.59
WOODFORD	KY	2.20	1.97	1.84	1.70	1.57	1.43
ACADIA	LA	3.50	3.43	3.21	3.00	2.78	2.56
ALLEN	LA	3.50	3.36	3.13	2.91	2.68	2.46
ASCENSION	LA	3.60	3.40	3.16	2.91	2.67	2.42
ASSUMPTION	LA	3.60	3.41	3.18	2.94	2.71	2.47
AVOYELLES	LA	3.40	3.21	3.01	2.82	2.62	2.43
BEAUREGARD	LA	3.50	3.35	3.12	2.88	2.65	2.42
BIENVILLE	LA	3.30	2.97	2.76	2.56	2.35	2.14
BOSSIER	LA	3.10	2.94	2.69	2.45	2.20	1.96
CADDO	LA	3.10	2.93	2.68	2.42	2.17	1.92
CALCASIEU	LA	3.50	3.42	3.19	2.97	2.74	2.51
CALDWELL	LA	3.30	3.10	2.91	2.73	2.54	2.36
CAMERON	LA	3.60	3.43	3.21	3.00	2.78	2.56
CATAHOULA	LA	3.40	3.20	3.00	2.80	2.60	2.40
CLAIBORNE	LA	3.10	2.96	2.75	2.53	2.32	2.10
CONCORDIA	LA	3.40	3.20	3.00	2.81	2.61	2.41
DE SOTO	LA	3.30	3.04	2.79	2.55	2.30	2.06
EAST BATON ROUGE	LA	3.60	3.40	3.15	2.90	2.65	2.40
EAST CARROLL	LA	3.10	3.02	2.86	2.70	2.54	2.38
EAST FELICIANA	LA	3.50	3.34	3.11	2.87	2.64	2.40
EVANGELINE	LA	3.50	3.36	3.14	2.91	2.69	2.47
FRANKLIN	LA	3.30	3.10	2.92	2.75	2.57	2.39
GRANT	LA	3.40	3.19	2.97	2.76	2.54	2.33
IBERIA	LA	3.60	3.44	3.22	3.01	2.79	2.58
IBERVILLE	LA	3.60	3.41	3.16	2.92	2.67	2.43
JACKSON	LA	3.30	3.00	2.82	2.63	2.45	2.27
JEFFERSON	LA	3.60	3.41	3.16	2.92	2.67	2.43
JEFFERSON DAVIS	LA	3.50	3.43	3.20	2.98	2.75	2.53
LA SALLE	LA	3.60	3.44	3.23	3.01	2.80	2.59
LAFAYETTE	LA	3.60	3.41	3.18	2.94	2.71	2.47
LAFOURCHE	LA	3.40	3.19	2.98	2.78	2.57	2.36
LINCOLN	LA	3.10	2.99	2.79	2.60	2.40	2.21
LIVINGSTON	LA	3.60	3.40	3.15	2.90	2.65	2.40
MADISON	LA	3.30	3.10	2.93	2.75	2.58	2.40
MOREHOUSE	LA	3.10	3.01	2.84	2.67	2.50	2.33
NATCHITOCHES	LA	3.30	3.17	2.94	2.70	2.47	2.24
ORLEANS	LA	3.60	3.41	3.17	2.93	2.69	2.45
OUACHITA	LA	3.10	3.01	2.84	2.66	2.49	2.32
PLAQUEMINES	LA	3.60	3.43	3.21	2.99	2.77	2.55
POINTE COUPEE	LA	3.50	3.35	3.12	2.90	2.67	2.44
RAPIDES	LA	3.40	3.20	2.99	2.79	2.58	2.38
RED RIVER	LA	3.30	3.05	2.82	2.58	2.35	2.12
RICHLAND	LA	3.10	3.02	2.86	2.70	2.54	2.38

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
SABINE	LA	3.30	3.16	2.92	2.68	2.44	2.20
ST. BERNARD	LA	3.60	3.41	3.18	2.94	2.71	2.47
ST. CHARLES	LA	3.60	3.41	3.16	2.92	2.67	2.43
ST. HELENA	LA	3.50	3.35	3.11	2.88	2.64	2.41
ST. JAMES	LA	3.60	3.41	3.17	2.92	2.68	2.44
ST. JOHN THE BAPTIST	LA	3.60	3.41	3.16	2.92	2.67	2.43
ST. LANDRY	LA	3.50	3.36	3.14	2.93	2.71	2.49
ST. MARTIN	LA	3.60	3.43	3.21	3.00	2.78	2.56
ST. MARY	LA	3.60	3.43	3.21	3.00	2.78	2.56
ST. TAMMANY	LA	3.50	3.36	3.14	2.91	2.69	2.47
TANGIPAHOA	LA	3.60	3.40	3.16	2.91	2.67	2.42
TENSAS	LA	3.30	3.10	2.93	2.75	2.58	2.40
TERREBONNE	LA	3.60	3.42	3.20	2.97	2.75	2.52
UNION	LA	3.10	2.99	2.80	2.61	2.42	2.23
VERMILION	LA	3.60	3.44	3.23	3.03	2.82	2.61
VERNON	LA	3.40	3.18	2.97	2.75	2.54	2.32
WASHINGTON	LA	3.50	3.36	3.13	2.91	2.68	2.46
WEBSTER	LA	3.10	2.94	2.70	2.46	2.22	1.98
WEST BATON ROUGE	LA	3.60	3.40	3.16	2.91	2.67	2.42
WEST CARROLL	LA	3.10	3.02	2.85	2.69	2.52	2.36
WEST FELICIANA	LA	3.50	3.35	3.12	2.88	2.65	2.42
WINN	LA	3.30	3.08	2.88	2.69	2.49	2.29
BARNSTABLE	MA	3.25	3.06	2.87	2.69	2.50	2.32
BERKSHIRE	MA	2.80	2.71	2.49	2.28	2.06	1.85
BRISTOL	MA	3.25	3.07	2.89	2.72	2.54	2.37
DUKES	MA	3.25	3.06	2.88	2.71	2.53	2.35
ESSEX	MA	3.25	3.04	2.83	2.63	2.42	2.22
FRANKLIN	MA	3.00	2.80	2.58	2.36	2.14	1.92
HAMPDEN	MA	3.00	2.90	2.68	2.45	2.23	2.01
HAMPSHIRE	MA	3.00	2.91	2.67	2.44	2.20	1.97
MIDDLESEX	MA	3.25	3.04	2.84	2.64	2.44	2.24
NANTUCKET	MA	3.25	3.06	2.88	2.69	2.51	2.33
NORFOLK	MA	3.25	3.05	2.87	2.68	2.50	2.31
PLYMOUTH	MA	3.25	3.06	2.88	2.71	2.53	2.35
SUFFOLK	MA	3.25	3.06	2.87	2.69	2.50	2.32
WORCESTER	MA	3.10	2.99	2.78	2.58	2.37	2.17
ALLEGANY	MD	2.60	2.58	2.33	2.09	1.84	1.60
ANNE ARUNDEL	MD	3.00	2.75	2.47	2.18	1.90	1.62
BALTIMORE	MD	3.00	2.73	2.44	2.14	1.85	1.55
BALTIMORE CITY	MD	3.00	2.74	2.45	2.15	1.86	1.57
CALVERT	MD	3.00	2.77	2.50	2.24	1.97	1.71
CAROLINE	MD	3.00	2.78	2.53	2.28	2.03	1.78
CARROLL	MD	2.80	2.72	2.41	2.10	1.79	1.48
CECIL	MD	3.00	2.80	2.51	2.22	1.93	1.64
CHARLES	MD	3.00	2.76	2.48	2.21	1.93	1.66
DORCHESTER	MD	3.00	2.68	2.46	2.24	2.02	1.80
FREDERICK	MD	2.80	2.72	2.41	2.10	1.79	1.48
GARRETT	MD	2.60	2.55	2.32	2.09	1.86	1.63
HARFORD	MD	3.00	2.74	2.45	2.15	1.86	1.57
HOWARD	MD	3.00	2.73	2.44	2.14	1.85	1.55
KENT	MD	3.00	2.75	2.48	2.20	1.93	1.65
MONTGOMERY	MD	3.00	2.73	2.44	2.14	1.85	1.55
PRINCE GEORGE'S	MD	3.00	2.75	2.47	2.19	1.91	1.63
QUEEN ANNE'S	MD	3.00	2.76	2.49	2.23	1.96	1.69
SOMERSET	MD	3.00	2.77	2.52	2.26	2.01	1.75
ST. MARY'S	MD	3.00	2.64	2.46	2.27	2.09	1.91
TALBOT	MD	3.00	2.78	2.52	2.27	2.01	1.76
WASHINGTON	MD	2.80	2.71	2.39	2.08	1.76	1.44
WICOMICO	MD	3.00	2.66	2.47	2.28	2.09	1.90
WORCESTER	MD	3.00	2.65	2.48	2.30	2.13	1.96
ANDROSCOGGIN	ME	2.80	2.67	2.43	2.18	1.94	1.69
AROOSTOOK	ME	2.60	2.09	1.91	1.72	1.54	1.35
CUMBERLAND	ME	3.00	2.76	2.53	2.29	2.06	1.83
FRANKLIN	ME	2.60	2.37	2.16	1.96	1.75	1.54
HANCOCK	ME	2.80	2.26	2.07	1.87	1.68	1.49
KENNEBEC	ME	2.80	2.37	2.18	1.98	1.79	1.59
KNOX	ME	2.80	2.38	2.19	1.99	1.80	1.61
LINCOLN	ME	2.80	2.47	2.27	2.08	1.88	1.68
OXFORD	ME	2.80	2.42	2.24	2.05	1.87	1.69
PENOBSCOT	ME	2.80	2.25	2.03	1.80	1.58	1.36

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
PISCATAQUIS	ME	2.60	2.24	2.03	1.81	1.60	1.39
SAGADAHOC	ME	2.80	2.70	2.46	2.23	1.99	1.75
SOMERSET	ME	2.60	2.33	2.12	1.90	1.69	1.47
WALDO	ME	2.80	2.32	2.12	1.91	1.71	1.51
WASHINGTON	ME	2.80	2.16	1.98	1.79	1.61	1.42
YORK	ME	3.00	2.87	2.65	2.42	2.20	1.98
ALCONA	MI	1.80	1.58	1.47	1.37	1.26	1.16
ALGER	MI	1.80	1.28	1.21	1.14	1.07	1.00
ALLEGAN	MI	1.80	1.62	1.54	1.45	1.37	1.29
ALPENA	MI	1.80	1.57	1.46	1.34	1.23	1.12
ANTRIM	MI	1.80	1.55	1.42	1.29	1.16	1.03
ARENAC	MI	1.80	1.59	1.50	1.40	1.31	1.22
BARAGA	MI	1.70	1.27	1.19	1.10	1.02	0.94
BARRY	MI	1.80	1.62	1.53	1.45	1.36	1.28
BAY	MI	1.80	1.66	1.56	1.47	1.37	1.28
BENZIE	MI	1.80	1.58	1.48	1.38	1.28	1.18
BERRIEN	MI	1.80	1.64	1.57	1.51	1.44	1.38
BRANCH	MI	1.80	1.62	1.53	1.45	1.36	1.28
CALHOUN	MI	1.80	1.62	1.54	1.46	1.38	1.30
CASS	MI	1.80	1.62	1.53	1.45	1.36	1.28
CHARLEVOIX	MI	1.80	1.55	1.41	1.28	1.14	1.01
CHEBOYGAN	MI	1.80	1.55	1.42	1.30	1.17	1.04
CHIPPEWA	MI	1.80	1.32	1.30	1.27	1.25	1.22
CLARE	MI	1.80	1.60	1.52	1.44	1.36	1.28
CLINTON	MI	1.80	1.68	1.62	1.55	1.49	1.42
CRAWFORD	MI	1.80	1.55	1.42	1.30	1.17	1.04
DELTA	MI	1.70	1.11	1.07	1.04	1.00	0.96
DICKINSON	MI	1.70	1.09	1.03	0.98	0.92	0.86
EATON	MI	1.80	1.64	1.57	1.51	1.44	1.38
EMMET	MI	1.80	1.55	1.42	1.28	1.15	1.02
GENESEE	MI	1.80	1.67	1.59	1.51	1.43	1.35
GLADWIN	MI	1.80	1.59	1.50	1.41	1.32	1.23
GOGEBIC	MI	1.70	1.12	1.09	1.07	1.04	1.01
GRAND TRAVERSE	MI	1.80	1.57	1.46	1.35	1.24	1.13
GRATIOT	MI	1.80	1.67	1.59	1.52	1.44	1.36
HILLSDALE	MI	1.80	1.66	1.57	1.49	1.40	1.31
HOUGHTON	MI	1.70	1.27	1.19	1.12	1.04	0.96
HURON	MI	1.80	1.66	1.56	1.47	1.37	1.28
INGHAM	MI	1.80	1.68	1.61	1.55	1.48	1.41
IONIA	MI	1.80	1.63	1.56	1.49	1.42	1.35
IOSCO	MI	1.80	1.58	1.48	1.39	1.29	1.19
IRON	MI	1.70	1.10	1.04	0.99	0.93	0.88
ISABELLA	MI	1.80	1.61	1.54	1.46	1.39	1.32
JACKSON	MI	1.80	1.67	1.59	1.52	1.44	1.36
KALAMAZOO	MI	1.80	1.61	1.51	1.42	1.32	1.23
KALKASKA	MI	1.80	1.56	1.44	1.33	1.21	1.09
KENT	MI	1.80	1.62	1.53	1.45	1.36	1.28
KEWEENAW	MI	1.70	1.28	1.20	1.13	1.05	0.98
LAKE	MI	1.80	1.61	1.54	1.48	1.41	1.34
LAPEER	MI	1.80	1.67	1.59	1.50	1.42	1.34
LEELANAU	MI	1.80	1.56	1.45	1.33	1.22	1.10
LENAWEE	MI	1.80	1.71	1.62	1.53	1.44	1.35
LIVINGSTON	MI	1.80	1.67	1.60	1.52	1.45	1.37
LUCE	MI	1.80	1.30	1.25	1.21	1.16	1.11
MACKINAC	MI	1.80	1.30	1.25	1.21	1.16	1.11
MACOMB	MI	1.80	1.68	1.60	1.53	1.45	1.38
MANISTEE	MI	1.80	1.60	1.52	1.43	1.35	1.27
MARQUETTE	MI	1.80	1.27	1.18	1.10	1.01	0.93
MASON	MI	1.80	1.62	1.56	1.49	1.43	1.37
MECOSTA	MI	1.80	1.61	1.54	1.48	1.41	1.34
MENOMINEE	MI	1.70	1.11	1.07	1.03	0.99	0.95
MIDLAND	MI	1.80	1.60	1.53	1.45	1.38	1.30
MISSAUKEE	MI	1.80	1.59	1.49	1.40	1.30	1.21
MONROE	MI	1.80	1.72	1.63	1.55	1.46	1.38
MONTCALM	MI	1.80	1.63	1.56	1.48	1.41	1.34
MONTMORENCY	MI	1.80	1.55	1.42	1.29	1.16	1.03
MUSKEGON	MI	1.80	1.63	1.57	1.50	1.44	1.37
NEWAYGO	MI	1.80	1.61	1.55	1.48	1.42	1.35
OAKLAND	MI	1.80	1.67	1.59	1.50	1.42	1.34
OCEANA	MI	1.80	1.62	1.56	1.50	1.44	1.38

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
OGEMAW	MI	1.80	1.58	1.47	1.37	1.26	1.16
ONTONAGON	MI	1.70	1.12	1.08	1.05	1.01	0.98
OSCEOLA	MI	1.80	1.61	1.53	1.46	1.38	1.31
OSCODA	MI	1.80	1.56	1.44	1.33	1.21	1.09
OTSEGO	MI	1.80	1.54	1.40	1.25	1.11	0.97
OTTAWA	MI	1.80	1.62	1.54	1.46	1.38	1.30
PRESQUE ISLE	MI	1.80	1.56	1.44	1.33	1.21	1.09
ROSCOMMON	MI	1.80	1.57	1.46	1.35	1.24	1.13
SAGINAW	MI	1.80	1.67	1.59	1.50	1.42	1.34
SANILAC	MI	1.80	1.66	1.57	1.49	1.40	1.31
SCHOOLCRAFT	MI	1.80	1.29	1.22	1.16	1.09	1.03
SHIAWASSEE	MI	1.80	1.68	1.61	1.53	1.46	1.39
ST. CLAIR	MI	1.80	1.68	1.60	1.53	1.45	1.38
ST. JOSEPH	MI	1.80	1.61	1.52	1.44	1.35	1.26
TUSCOLA	MI	1.80	1.66	1.57	1.48	1.39	1.30
VAN BUREN	MI	1.80	1.62	1.54	1.45	1.37	1.29
WASHTENAW	MI	1.80	1.67	1.59	1.52	1.44	1.36
WAYNE	MI	1.80	1.67	1.60	1.52	1.45	1.37
WEXFORD	MI	1.80	1.59	1.50	1.42	1.33	1.24
AITKIN	MN	1.65	1.13	1.13	1.12	1.12	1.11
ANOKA	MN	1.70	1.15	1.15	1.16	1.16	1.17
BECKER	MN	1.65	1.09	1.04	0.98	0.93	0.88
BELTRAMI	MN	1.65	1.13	1.05	0.98	0.90	0.83
BENTON	MN	1.70	1.13	1.12	1.12	1.11	1.10
BIG STONE	MN	1.70	1.11	1.08	1.05	1.02	0.99
BLUE EARTH	MN	1.70	1.20	1.19	1.19	1.18	1.18
BROWN	MN	1.70	1.19	1.19	1.18	1.18	1.17
CARLTON	MN	1.65	1.15	1.17	1.18	1.20	1.21
CARVER	MN	1.70	1.15	1.15	1.16	1.16	1.17
CASS	MN	1.65	1.10	1.07	1.03	1.00	0.96
CHIPPEWA	MN	1.70	1.12	1.11	1.09	1.08	1.06
CHISAGO	MN	1.70	1.14	1.14	1.15	1.15	1.15
CLAY	MN	1.65	1.13	1.06	1.00	0.93	0.86
CLEARWATER	MN	1.65	1.13	1.05	0.98	0.90	0.83
COOK	MN	1.65	1.17	1.13	1.10	1.06	1.03
COTTONWOOD	MN	1.70	1.20	1.19	1.19	1.18	1.18
CROW WING	MN	1.65	1.12	1.10	1.08	1.06	1.04
DAKOTA	MN	1.70	1.14	1.15	1.15	1.16	1.16
DODGE	MN	1.70	1.14	1.13	1.13	1.12	1.12
DOUGLAS	MN	1.70	1.10	1.07	1.03	1.00	0.96
FARIBAULT	MN	1.70	1.20	1.20	1.21	1.21	1.21
FILLMORE	MN	1.70	1.14	1.14	1.13	1.13	1.13
FREEBORN	MN	1.70	1.20	1.19	1.19	1.18	1.18
GOODHUE	MN	1.70	1.14	1.13	1.13	1.12	1.12
GRANT	MN	1.70	1.10	1.06	1.03	0.99	0.95
HENNEPIN	MN	1.70	1.20	1.20	1.20	1.20	1.20
HOUSTON	MN	1.70	1.15	1.15	1.16	1.16	1.17
HUBBARD	MN	1.65	1.09	1.05	1.00	0.96	0.91
ISANTI	MN	1.70	1.14	1.14	1.15	1.15	1.15
ITASCA	MN	1.65	1.16	1.12	1.09	1.05	1.01
JACKSON	MN	1.70	1.20	1.20	1.21	1.21	1.21
KANABEC	MN	1.70	1.14	1.14	1.14	1.14	1.14
KANDIYOHI	MN	1.70	1.13	1.11	1.10	1.08	1.07
KITTSON	MN	1.60	1.13	1.06	1.00	0.93	0.86
KOOCHICHING	MN	1.65	1.14	1.09	1.03	0.98	0.92
LAC QUI PARLE	MN	1.70	1.17	1.14	1.10	1.07	1.04
LAKE	MN	1.65	1.18	1.16	1.15	1.13	1.11
LAKE OF THE WOODS	MN	1.60	1.12	1.05	0.97	0.90	0.82
LE SUEUR	MN	1.70	1.15	1.15	1.16	1.16	1.17
LINCOLN	MN	1.70	1.33	1.27	1.22	1.16	1.11
LYON	MN	1.70	1.19	1.17	1.16	1.14	1.13
MAHNOMEN	MN	1.70	1.14	1.14	1.14	1.14	1.14
MARSHALL	MN	1.65	1.13	1.05	0.98	0.90	0.83
MARTIN	MN	1.65	1.12	1.05	0.97	0.90	0.82
MCLEOD	MN	1.70	1.20	1.20	1.21	1.21	1.21
MEEKER	MN	1.70	1.13	1.12	1.12	1.11	1.10
MILLE LACS	MN	1.70	1.13	1.13	1.12	1.12	1.11
MORRISON	MN	1.70	1.12	1.10	1.08	1.06	1.04
MOWER	MN	1.70	1.19	1.18	1.16	1.15	1.14
MURRAY	MN	1.70	1.19	1.19	1.18	1.18	1.17

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
NICOLLET	MN	1.70	1.15	1.15	1.16	1.16	1.17
NOBLES	MN	1.70	1.37	1.33	1.28	1.24	1.20
NORMAN	MN	1.65	1.13	1.07	1.00	0.94	0.87
OLMSTED	MN	1.70	1.18	1.16	1.14	1.12	1.10
OTTER TAIL	MN	1.65	1.10	1.05	1.01	0.96	0.92
PENNINGTON	MN	1.65	1.10	1.00	0.91	0.81	0.71
PINE	MN	1.70	1.15	1.16	1.16	1.17	1.18
PIPESTONE	MN	1.70	1.36	1.31	1.25	1.20	1.15
POLK	MN	1.65	1.13	1.06	0.99	0.92	0.85
POPE	MN	1.70	1.11	1.08	1.06	1.03	1.00
RAMSEY	MN	1.70	1.20	1.20	1.20	1.20	1.20
RED LAKE	MN	1.65	1.11	1.02	0.93	0.84	0.75
REDWOOD	MN	1.70	1.19	1.18	1.16	1.15	1.14
RENVILLE	MN	1.70	1.14	1.13	1.13	1.12	1.12
RICE	MN	1.70	1.14	1.15	1.15	1.16	1.16
ROCK	MN	1.70	1.41	1.36	1.30	1.25	1.20
ROSEAU	MN	1.60	1.12	1.03	0.95	0.86	0.78
SCOTT	MN	1.65	1.18	1.16	1.15	1.13	1.11
SHERBURNE	MN	1.70	1.15	1.15	1.16	1.16	1.17
SIBLEY	MN	1.70	1.14	1.14	1.13	1.13	1.13
ST. LOUIS	MN	1.70	1.14	1.15	1.15	1.16	1.16
STEARNS	MN	1.70	1.12	1.11	1.09	1.08	1.06
STEELE	MN	1.70	1.14	1.14	1.15	1.15	1.15
STEVENS	MN	1.70	1.11	1.08	1.04	1.01	0.98
SWIFT	MN	1.70	1.12	1.10	1.07	1.05	1.03
TODD	MN	1.70	1.11	1.08	1.05	1.02	0.99
TRAVERSE	MN	1.70	1.10	1.07	1.03	1.00	0.96
WABASHA	MN	1.70	1.13	1.12	1.12	1.11	1.10
WADENA	MN	1.65	1.10	1.06	1.02	0.98	0.94
WASECA	MN	1.70	1.15	1.15	1.16	1.16	1.17
WASHINGTON	MN	1.70	1.19	1.18	1.17	1.16	1.15
WATONWAN	MN	1.70	1.20	1.20	1.19	1.19	1.19
WILKIN	MN	1.65	1.09	1.05	1.00	0.96	0.91
WINONA	MN	1.70	1.14	1.14	1.15	1.15	1.15
WRIGHT	MN	1.70	1.14	1.14	1.14	1.14	1.14
YELLOW MEDICINE	MN	1.70	1.18	1.16	1.13	1.11	1.09
ADAIR	MO	1.80	1.67	1.61	1.56	1.50	1.45
ANDREW	MO	1.80	1.84	1.75	1.67	1.58	1.50
ATCHISON	MO	1.80	1.84	1.76	1.68	1.60	1.52
AUDRAIN	MO	2.00	1.84	1.76	1.68	1.60	1.52
BARRY	MO	2.20	2.01	1.82	1.64	1.45	1.27
BARTON	MO	2.20	2.10	1.90	1.71	1.51	1.31
BATES	MO	2.00	1.81	1.71	1.60	1.50	1.39
BENTON	MO	2.00	1.82	1.71	1.61	1.50	1.40
BOLLINGER	MO	2.20	1.95	1.89	1.83	1.77	1.71
BOONE	MO	2.00	1.85	1.78	1.71	1.64	1.57
BUCHANAN	MO	1.80	1.83	1.75	1.66	1.58	1.49
BUTLER	MO	2.20	2.11	2.04	1.96	1.89	1.81
CALDWELL	MO	1.80	1.83	1.75	1.66	1.58	1.49
CALLAWAY	MO	2.00	1.85	1.78	1.70	1.63	1.56
CAMDEN	MO	2.00	2.03	1.87	1.72	1.56	1.40
CAPE GIRARDEAU	MO	2.20	1.95	1.89	1.84	1.78	1.72
CARROLL	MO	1.80	1.67	1.63	1.58	1.54	1.49
CARTER	MO	2.20	2.10	2.00	1.91	1.81	1.72
CASS	MO	2.00	1.82	1.72	1.63	1.53	1.43
CEDAR	MO	2.20	2.02	1.84	1.67	1.49	1.32
CHARITON	MO	1.80	1.84	1.75	1.67	1.58	1.50
CHRISTIAN	MO	2.20	2.02	1.84	1.67	1.49	1.32
CLARK	MO	1.80	1.66	1.60	1.55	1.49	1.43
CLAY	MO	1.80	1.83	1.74	1.65	1.56	1.47
CLINTON	MO	1.80	1.83	1.75	1.66	1.58	1.49
COLE	MO	2.00	1.84	1.76	1.69	1.61	1.53
COOPER	MO	2.00	1.84	1.76	1.69	1.61	1.53
CRAWFORD	MO	2.00	1.92	1.84	1.75	1.67	1.58
DADE	MO	2.20	2.01	1.83	1.65	1.47	1.29
DALLAS	MO	2.20	2.01	1.84	1.66	1.49	1.31
DAVIESS	MO	1.80	1.84	1.76	1.67	1.59	1.51
DE KALB	MO	1.80	1.84	1.75	1.67	1.58	1.50
DENT	MO	2.00	2.06	1.94	1.81	1.69	1.56
DOUGLAS	MO	2.20	2.03	1.88	1.72	1.57	1.41

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
DUNKLIN	MO	2.20	2.44	2.32	2.21	2.09	1.98
FRANKLIN	MO	2.00	1.93	1.85	1.77	1.69	1.61
GASCONADE	MO	2.00	2.07	1.94	1.82	1.69	1.57
GENTRY	MO	1.80	1.84	1.76	1.68	1.60	1.52
GREENE	MO	2.20	2.01	1.84	1.66	1.49	1.31
GRUNDY	MO	1.80	1.54	1.53	1.52	1.51	1.50
HARRISON	MO	1.80	1.54	1.54	1.53	1.53	1.52
HENRY	MO	2.00	1.82	1.72	1.61	1.51	1.41
HICKORY	MO	2.00	2.02	1.85	1.69	1.52	1.35
HOLT	MO	1.80	1.84	1.75	1.67	1.58	1.50
HOWARD	MO	2.00	1.84	1.77	1.69	1.62	1.54
HOWELL	MO	2.20	2.07	1.95	1.84	1.72	1.60
IRON	MO	2.00	2.08	1.97	1.87	1.76	1.65
JACKSON	MO	2.00	1.83	1.74	1.64	1.55	1.46
JASPER	MO	2.20	2.10	1.89	1.69	1.48	1.28
JEFFERSON	MO	2.00	1.94	1.87	1.79	1.72	1.65
JOHNSON	MO	2.00	1.82	1.73	1.63	1.54	1.44
KNOX	MO	1.80	1.66	1.60	1.54	1.48	1.42
LACLEDE	MO	2.20	2.03	1.86	1.70	1.53	1.37
LAFAYETTE	MO	2.00	1.83	1.74	1.66	1.57	1.48
LAWRENCE	MO	2.20	2.01	1.83	1.64	1.46	1.28
LEWIS	MO	1.80	1.65	1.58	1.51	1.44	1.37
LINCOLN	MO	2.00	1.85	1.78	1.72	1.65	1.58
LINN	MO	1.80	1.67	1.62	1.58	1.53	1.48
LIVINGSTON	MO	1.80	1.68	1.63	1.59	1.54	1.50
MACON	MO	2.20	2.01	1.82	1.64	1.45	1.27
MADISON	MO	1.80	1.67	1.62	1.56	1.51	1.46
MARIES	MO	2.20	2.09	1.99	1.88	1.78	1.68
MARION	MO	2.00	2.05	1.92	1.78	1.65	1.51
MCDONALD	MO	1.80	1.65	1.59	1.52	1.46	1.39
MERCER	MO	1.80	1.54	1.53	1.53	1.52	1.51
MILLER	MO	2.00	1.83	1.74	1.65	1.56	1.47
MISSISSIPPI	MO	2.20	2.28	2.17	2.05	1.94	1.83
MONITEAU	MO	2.00	1.84	1.77	1.69	1.62	1.54
MONROE	MO	1.80	1.67	1.62	1.57	1.52	1.47
MONTGOMERY	MO	2.00	1.85	1.78	1.70	1.63	1.56
MORGAN	MO	2.00	1.83	1.74	1.64	1.55	1.46
NEW MADRID	MO	2.20	2.29	2.19	2.09	1.99	1.89
NEWTON	MO	2.20	2.09	1.89	1.68	1.48	1.27
NODAWAY	MO	1.80	1.84	1.76	1.69	1.61	1.53
OREGON	MO	2.20	2.09	1.99	1.90	1.80	1.70
OSAGE	MO	2.00	1.85	1.77	1.70	1.62	1.55
OZARK	MO	2.20	2.05	1.91	1.77	1.63	1.49
PEMISCOT	MO	2.20	2.44	2.33	2.21	2.10	1.99
PERRY	MO	2.20	1.94	1.87	1.79	1.72	1.65
PETTIS	MO	2.00	1.83	1.74	1.65	1.56	1.47
PHELPS	MO	2.00	2.05	1.92	1.78	1.65	1.51
PIKE	MO	2.00	1.68	1.64	1.59	1.55	1.51
PLATTE	MO	1.80	1.83	1.74	1.65	1.56	1.47
POLK	MO	2.20	2.01	1.83	1.66	1.48	1.30
PULASKI	MO	2.20	2.04	1.90	1.75	1.61	1.46
PUTNAM	MO	1.80	1.54	1.52	1.51	1.49	1.48
RALLS	MO	2.00	1.66	1.61	1.55	1.50	1.44
RANDOLPH	MO	1.80	1.84	1.76	1.67	1.59	1.51
RAY	MO	1.80	1.67	1.63	1.58	1.54	1.49
REYNOLDS	MO	2.20	2.08	1.97	1.87	1.76	1.65
RIPLEY	MO	2.20	2.11	2.03	1.96	1.88	1.80
SALINE	MO	2.00	1.93	1.85	1.78	1.70	1.62
SCHUYLER	MO	1.80	1.53	1.51	1.50	1.48	1.46
SCOTLAND	MO	1.80	1.66	1.61	1.55	1.50	1.44
SCOTT	MO	2.20	2.27	2.15	2.02	1.90	1.78
SHANNON	MO	2.20	2.08	1.96	1.85	1.73	1.62
SHELBY	MO	1.80	1.66	1.60	1.55	1.49	1.43
ST. CHARLES	MO	2.00	1.93	1.85	1.78	1.70	1.62
ST. CLAIR	MO	2.00	1.81	1.70	1.58	1.47	1.36
ST. FRANCOIS	MO	2.00	1.94	1.86	1.79	1.71	1.64
ST. LOUIS	MO	2.00	1.94	1.87	1.80	1.73	1.66
ST. LOUIS CITY	MO	2.00	1.94	1.87	1.81	1.74	1.67
STE. GENEVIEVE	MO	2.00	1.94	1.86	1.79	1.71	1.64
STODDARD	MO	2.20	2.11	2.04	1.96	1.89	1.81

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
STONE	MO	2.20	2.01	1.84	1.66	1.49	1.31
SULLIVAN	MO	1.80	1.67	1.63	1.58	1.54	1.49
TANEY	MO	2.20	2.03	1.86	1.70	1.53	1.37
TEXAS	MO	2.20	2.05	1.91	1.77	1.63	1.49
VERNON	MO	2.20	2.11	1.92	1.73	1.54	1.35
WARREN	MO	2.00	1.93	1.84	1.76	1.67	1.59
WASHINGTON	MO	2.00	1.93	1.85	1.78	1.70	1.62
WAYNE	MO	2.20	2.10	2.01	1.92	1.83	1.74
WEBSTER	MO	2.20	2.01	1.83	1.64	1.46	1.28
WORTH	MO	1.80	1.84	1.76	1.69	1.61	1.53
WRIGHT	MO	2.20	2.03	1.87	1.70	1.54	1.38
ADAMS	MS	3.40	3.20	3.00	2.81	2.61	2.41
ALCORN	MS	2.90	2.70	2.57	2.43	2.30	2.17
AMITE	MS	3.40	3.20	3.01	2.81	2.62	2.42
ATTALA	MS	3.10	2.95	2.82	2.70	2.57	2.44
BENTON	MS	2.90	2.72	2.61	2.50	2.39	2.28
BOLIVAR	MS	3.10	2.85	2.72	2.60	2.47	2.34
CALHOUN	MS	3.10	2.86	2.74	2.63	2.51	2.39
CARROLL	MS	3.10	2.95	2.82	2.68	2.55	2.42
CHICKASAW	MS	3.10	2.85	2.73	2.60	2.48	2.35
CHOCTAW	MS	3.10	2.95	2.82	2.68	2.55	2.42
CLAIBORNE	MS	3.30	3.11	2.94	2.76	2.59	2.42
CLARKE	MS	3.30	3.13	2.98	2.84	2.69	2.54
CLAY	MS	3.10	2.94	2.80	2.65	2.51	2.37
COAHOMA	MS	2.90	2.74	2.64	2.55	2.45	2.36
COPIAH	MS	3.30	3.11	2.94	2.78	2.61	2.44
COVINGTON	MS	3.40	3.22	3.04	2.87	2.69	2.51
DE SOTO	MS	2.90	2.75	2.66	2.58	2.49	2.41
FORREST	MS	3.40	3.23	3.06	2.90	2.73	2.56
FRANKLIN	MS	3.40	3.20	3.01	2.81	2.62	2.42
GEORGE	MS	3.40	3.41	3.23	3.06	2.88	2.71
GREENE	MS	3.40	3.25	3.10	2.95	2.80	2.65
GRENADA	MS	3.10	2.87	2.75	2.64	2.52	2.41
HANCOCK	MS	3.50	3.37	3.16	2.96	2.75	2.54
HARRISON	MS	3.50	3.39	3.20	3.02	2.83	2.64
HINDS	MS	3.30	3.11	2.94	2.78	2.61	2.44
HOLMES	MS	3.10	2.95	2.82	2.68	2.55	2.42
HUMPHREYS	MS	3.10	2.95	2.81	2.68	2.54	2.41
ISSAQUENA	MS	3.10	3.02	2.86	2.71	2.55	2.39
ITAWAMBA	MS	2.90	2.71	2.59	2.46	2.34	2.22
JACKSON	MS	3.50	3.41	3.24	3.08	2.91	2.74
JASPER	MS	3.30	3.13	2.98	2.82	2.67	2.52
JEFFERSON	MS	3.40	3.20	3.01	2.81	2.62	2.42
JEFFERSON DAVIS	MS	3.40	3.22	3.04	2.85	2.67	2.49
JONES	MS	3.40	3.23	3.06	2.88	2.71	2.54
KEMPER	MS	3.10	3.03	2.89	2.74	2.60	2.45
LAFAYETTE	MS	2.90	2.74	2.65	2.55	2.46	2.37
LAMAR	MS	3.40	3.23	3.05	2.88	2.70	2.53
LAUDERDALE	MS	3.30	3.12	2.96	2.81	2.65	2.49
LAWRENCE	MS	3.40	3.21	3.02	2.84	2.65	2.46
LEAKE	MS	3.10	3.04	2.89	2.75	2.60	2.46
LEE	MS	2.90	2.72	2.60	2.49	2.37	2.26
LEFLORE	MS	3.10	2.94	2.81	2.67	2.54	2.40
LINCOLN	MS	3.40	3.21	3.02	2.82	2.63	2.44
LOWNDES	MS	3.10	2.93	2.79	2.64	2.50	2.35
MADISON	MS	3.10	3.03	2.88	2.74	2.59	2.44
MARION	MS	3.40	3.22	3.04	2.85	2.67	2.49
MARSHALL	MS	2.90	2.74	2.64	2.55	2.45	2.36
MONROE	MS	3.10	2.84	2.71	2.57	2.44	2.30
MONTGOMERY	MS	3.10	2.95	2.82	2.68	2.55	2.42
NESHOBA	MS	3.10	3.04	2.89	2.75	2.60	2.46
NEWTON	MS	3.30	3.12	2.96	2.80	2.64	2.48
NOXUBEE	MS	3.10	2.95	2.81	2.68	2.54	2.41
OKTIBBEHA	MS	3.10	2.94	2.81	2.67	2.54	2.40
PANOLA	MS	2.90	2.74	2.66	2.57	2.49	2.40
PEARL RIVER	MS	3.40	3.37	3.16	2.94	2.73	2.52
PERRY	MS	3.40	3.24	3.08	2.92	2.76	2.60
PIKE	MS	3.40	3.21	3.02	2.82	2.63	2.44
PONTOTOC	MS	2.90	2.73	2.63	2.53	2.43	2.33
PRENTISS	MS	2.90	2.70	2.57	2.44	2.31	2.18

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
QUITMAN	MS	2.90	2.74	2.65	2.57	2.48	2.39
RANKIN	MS	3.30	3.12	2.95	2.79	2.62	2.46
SCOTT	MS	3.30	3.12	2.96	2.79	2.63	2.47
SHARKEY	MS	3.10	3.02	2.87	2.71	2.56	2.40
SIMPSON	MS	3.30	3.12	2.96	2.79	2.63	2.47
SMITH	MS	3.30	3.12	2.96	2.81	2.65	2.49
STONE	MS	3.40	3.38	3.19	2.99	2.80	2.60
SUNFLOWER	MS	3.10	2.86	2.74	2.62	2.50	2.38
TALLAHATCHIE	MS	3.10	2.86	2.75	2.63	2.52	2.40
TATE	MS	2.90	2.74	2.66	2.57	2.49	2.40
TIPPAH	MS	2.90	2.71	2.60	2.48	2.37	2.25
TISHOMINGO	MS	2.90	2.69	2.54	2.40	2.25	2.11
TUNICA	MS	2.90	2.74	2.65	2.57	2.48	2.39
UNION	MS	2.90	2.72	2.61	2.51	2.40	2.29
WALTHALL	MS	3.40	3.21	3.02	2.84	2.65	2.46
WARREN	MS	3.30	3.11	2.94	2.76	2.59	2.42
WASHINGTON	MS	3.10	2.94	2.80	2.65	2.51	2.37
WAYNE	MS	3.40	3.24	3.08	2.91	2.75	2.59
WEBSTER	MS	3.10	2.95	2.81	2.68	2.54	2.41
WILKINSON	MS	3.40	3.20	3.00	2.81	2.61	2.41
WINSTON	MS	3.10	2.95	2.82	2.69	2.56	2.43
YALOBUSHA	MS	3.10	2.86	2.75	2.63	2.52	2.40
YAZOO	MS	3.10	3.03	2.88	2.73	2.58	2.43
BEAVERHEAD	MT	1.60	1.47	1.34	1.21	1.08	0.95
BIG HORN	MT	1.60	1.50	1.40	1.31	1.21	1.11
BLAINE	MT	1.60	1.53	1.45	1.38	1.30	1.23
BROADWATER	MT	1.60	1.48	1.36	1.24	1.12	1.00
CARBON	MT	1.60	1.49	1.38	1.26	1.15	1.04
CARTER	MT	1.65	1.48	1.35	1.23	1.10	0.98
CASCADE	MT	1.60	1.54	1.48	1.42	1.36	1.30
CHOUTEAU	MT	1.60	1.54	1.48	1.41	1.35	1.29
CUSTER	MT	1.60	1.49	1.38	1.28	1.17	1.06
DANIELS	MT	1.60	1.50	1.41	1.31	1.22	1.12
DAWSON	MT	1.60	1.49	1.38	1.28	1.17	1.06
DEER LODGE	MT	1.60	1.50	1.40	1.29	1.19	1.09
FALLON	MT	1.65	1.48	1.36	1.25	1.13	1.01
FERGUS	MT	1.60	1.52	1.43	1.35	1.26	1.18
FLATHEAD	MT	1.60	1.52	1.43	1.35	1.26	1.18
GALLATIN	MT	1.60	1.44	1.28	1.11	0.95	0.79
GARFIELD	MT	1.60	1.51	1.42	1.34	1.25	1.16
GLACIER	MT	1.60	1.53	1.46	1.38	1.31	1.24
GOLDEN VALLEY	MT	1.60	1.50	1.41	1.31	1.22	1.12
GRANITE	MT	1.60	1.52	1.43	1.35	1.26	1.18
HILL	MT	1.60	1.53	1.47	1.40	1.34	1.27
JEFFERSON	MT	1.60	1.48	1.36	1.25	1.13	1.01
JUDITH BASIN	MT	1.60	1.52	1.44	1.36	1.28	1.20
LAKE	MT	1.60	1.52	1.44	1.35	1.27	1.19
LEWIS AND CLARK	MT	1.60	1.52	1.44	1.35	1.27	1.19
LIBERTY	MT	1.60	1.54	1.47	1.41	1.34	1.28
LINCOLN	MT	1.80	1.50	1.40	1.29	1.19	1.09
MADISON	MT	1.60	1.50	1.40	1.30	1.20	1.10
MCCONE	MT	1.60	1.45	1.31	1.16	1.02	0.87
MEAGHER	MT	1.60	1.49	1.38	1.26	1.15	1.04
MINERAL	MT	1.80	1.51	1.42	1.32	1.23	1.14
MISSOULA	MT	1.60	1.52	1.44	1.37	1.29	1.21
MUSSELSHELL	MT	1.60	1.51	1.42	1.33	1.24	1.15
PARK	MT	1.60	1.45	1.29	1.14	0.98	0.83
PETROLEUM	MT	1.60	1.51	1.43	1.34	1.26	1.17
PHILLIPS	MT	1.60	1.52	1.44	1.36	1.28	1.20
PONDERA	MT	1.60	1.54	1.47	1.41	1.34	1.28
POWDER RIVER	MT	1.60	1.49	1.37	1.26	1.14	1.03
POWELL	MT	1.60	1.51	1.42	1.34	1.25	1.16
PRAIRIE	MT	1.60	1.49	1.39	1.28	1.18	1.07
RAVALLI	MT	1.60	1.52	1.44	1.37	1.29	1.21
RICHLAND	MT	1.60	1.49	1.38	1.27	1.16	1.05
ROOSEVELT	MT	1.60	1.50	1.39	1.29	1.18	1.08
ROSEBUD	MT	1.60	1.50	1.40	1.31	1.21	1.11
SANDERS	MT	1.80	1.51	1.41	1.32	1.22	1.13
SHERIDAN	MT	1.60	1.50	1.39	1.29	1.18	1.08
SILVER BOW	MT	1.60	1.49	1.37	1.26	1.14	1.03

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
STILLWATER	MT	1.60	1.48	1.36	1.24	1.12	1.00
SWEET GRASS	MT	1.60	1.47	1.34	1.21	1.08	0.95
TETON	MT	1.60	1.54	1.48	1.42	1.36	1.30
TOOLE	MT	1.60	1.54	1.47	1.41	1.34	1.28
TREASURE	MT	1.60	1.51	1.41	1.32	1.22	1.13
VALLEY	MT	1.60	1.51	1.42	1.34	1.25	1.16
WHEATLAND	MT	1.60	1.50	1.39	1.29	1.18	1.08
WIBAUX	MT	1.60	1.49	1.37	1.26	1.14	1.03
YELLOWSTONE	MT	1.60	1.51	1.42	1.33	1.24	1.15
YELLOWSTONE NATIONAL PARK	MT	1.60	1.45	1.30	1.15	1.00	0.85
ALAMANCE	NC	3.10	2.86	2.63	2.41	2.18	1.96
ALEXANDER	NC	2.95	2.70	2.48	2.25	2.03	1.80
ALLEGHANY	NC	2.95	2.69	2.45	2.22	1.98	1.74
ANSON	NC	3.10	2.88	2.68	2.49	2.29	2.09
ASHE	NC	2.95	2.69	2.45	2.22	1.98	1.74
AVERY	NC	2.95	2.70	2.47	2.24	2.01	1.78
BEAUFORT	NC	3.20	3.06	2.90	2.73	2.57	2.40
BERTIE	NC	3.20	3.03	2.84	2.64	2.45	2.25
BLADEN	NC	3.30	3.07	2.91	2.76	2.60	2.44
BRUNSWICK	NC	3.30	3.11	2.99	2.86	2.74	2.62
BUNCOMBE	NC	2.95	2.72	2.51	2.29	2.08	1.87
BURKE	NC	2.95	2.71	2.49	2.26	2.04	1.82
CABARRUS	NC	3.10	2.84	2.61	2.37	2.14	1.90
CALDWELL	NC	2.95	2.70	2.47	2.25	2.02	1.79
CAMDEN	NC	3.20	3.03	2.84	2.64	2.45	2.25
CARTERET	NC	3.20	3.09	2.95	2.81	2.67	2.53
CASWELL	NC	3.10	2.84	2.60	2.36	2.12	1.88
CATAWBA	NC	3.10	2.83	2.58	2.33	2.08	1.83
CHATHAM	NC	3.10	2.88	2.68	2.48	2.28	2.08
CHEROKEE	NC	2.95	2.77	2.60	2.44	2.27	2.11
CHOWAN	NC	3.20	3.03	2.83	2.64	2.44	2.24
CLAY	NC	2.95	2.77	2.61	2.46	2.30	2.14
CLEVELAND	NC	3.10	2.84	2.61	2.37	2.14	1.90
COLUMBUS	NC	3.30	3.09	2.95	2.82	2.68	2.54
CRAVEN	NC	3.20	3.08	2.93	2.79	2.64	2.49
CUMBERLAND	NC	3.30	3.04	2.84	2.65	2.45	2.26
CURRITUCK	NC	3.20	3.03	2.83	2.64	2.44	2.24
DARE	NC	3.20	3.05	2.88	2.70	2.53	2.35
DAVIDSON	NC	3.10	2.85	2.62	2.38	2.15	1.92
DAVIE	NC	3.10	2.83	2.59	2.34	2.10	1.85
DUPLIN	NC	3.30	3.07	2.91	2.75	2.59	2.43
DURHAM	NC	3.10	2.87	2.66	2.46	2.25	2.04
EDGECOMBE	NC	3.20	3.03	2.83	2.64	2.44	2.24
FORSYTH	NC	3.10	2.84	2.59	2.35	2.10	1.86
FRANKLIN	NC	3.10	2.88	2.68	2.49	2.29	2.09
GASTON	NC	3.10	2.84	2.60	2.35	2.11	1.87
GATES	NC	3.20	3.02	2.81	2.60	2.39	2.18
GRAHAM	NC	2.95	2.76	2.58	2.41	2.23	2.06
GRANVILLE	NC	3.10	2.86	2.65	2.43	2.22	2.00
GREENE	NC	3.20	3.05	2.87	2.70	2.52	2.34
GUILFORD	NC	3.10	2.85	2.62	2.38	2.15	1.92
HALIFAX	NC	3.10	2.89	2.70	2.51	2.32	2.13
HARNETT	NC	3.30	3.02	2.81	2.59	2.38	2.17
HAYWOOD	NC	2.95	2.73	2.54	2.34	2.15	1.95
HENDERSON	NC	2.95	2.74	2.54	2.35	2.15	1.96
HERTFORD	NC	3.20	3.02	2.81	2.59	2.38	2.17
HOKE	NC	3.30	3.03	2.83	2.64	2.44	2.24
HYDE	NC	3.20	3.07	2.91	2.75	2.59	2.43
IREDELL	NC	3.10	2.83	2.58	2.33	2.08	1.83
JACKSON	NC	2.95	2.75	2.57	2.40	2.22	2.04
JOHNSTON	NC	3.20	3.03	2.82	2.62	2.41	2.21
JONES	NC	3.20	3.08	2.93	2.77	2.62	2.47
LEE	NC	3.10	2.89	2.70	2.50	2.31	2.12
LENOIR	NC	3.20	3.07	2.91	2.75	2.59	2.43
LINCOLN	NC	3.10	2.83	2.59	2.34	2.10	1.85
MACON	NC	2.95	2.71	2.49	2.27	2.05	1.83
MADISON	NC	2.95	2.76	2.59	2.42	2.25	2.08
MARTIN	NC	2.95	2.71	2.50	2.28	2.07	1.85
MCDOWELL	NC	3.20	3.04	2.86	2.67	2.49	2.30
MECKLENBURG	NC	3.10	2.84	2.60	2.37	2.13	1.89

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MITCHELL	NC	2.95	2.70	2.48	2.25	2.03	1.80
MONTGOMERY	NC	3.10	2.87	2.66	2.44	2.23	2.02
MOORE	NC	3.10	2.89	2.69	2.50	2.30	2.11
NASH	NC	3.10	2.90	2.72	2.54	2.36	2.18
NEW HANOVER	NC	3.30	3.11	2.98	2.86	2.73	2.61
NORTHAMPTON	NC	3.10	2.88	2.69	2.49	2.30	2.10
ONSLOW	NC	3.30	3.09	2.95	2.80	2.66	2.52
ORANGE	NC	3.10	2.87	2.65	2.44	2.22	2.01
PAMLICO	NC	3.20	3.08	2.93	2.78	2.63	2.48
PASQUOTANK	NC	3.20	3.03	2.84	2.64	2.45	2.25
PENDER	NC	3.30	3.09	2.95	2.81	2.67	2.53
PERQUIMANS	NC	3.20	3.04	2.84	2.65	2.45	2.26
PERSON	NC	3.10	2.85	2.62	2.38	2.15	1.92
PITT	NC	3.20	3.05	2.88	2.70	2.53	2.35
POLK	NC	3.10	2.85	2.63	2.40	2.18	1.95
RANDOLPH	NC	3.10	2.86	2.64	2.42	2.20	1.98
RICHMOND	NC	3.10	2.90	2.72	2.53	2.35	2.17
ROBESON	NC	3.30	3.05	2.88	2.70	2.53	2.35
ROCKINGHAM	NC	2.95	2.71	2.50	2.28	2.07	1.85
ROWAN	NC	3.10	2.84	2.60	2.37	2.13	1.89
RUTHERFORD	NC	3.10	2.84	2.60	2.37	2.13	1.89
SAMPSON	NC	3.30	3.05	2.87	2.70	2.52	2.34
SCOTLAND	NC	3.30	3.03	2.83	2.64	2.44	2.24
STANLY	NC	3.10	2.86	2.64	2.41	2.19	1.97
STOKES	NC	2.95	2.70	2.47	2.25	2.02	1.79
SURRY	NC	2.95	2.70	2.47	2.23	2.00	1.77
SWAIN	NC	2.95	2.75	2.57	2.39	2.21	2.03
TRANSYLVANIA	NC	2.95	2.75	2.56	2.38	2.19	2.01
TYRRELL	NC	3.20	3.05	2.87	2.70	2.52	2.34
UNION	NC	3.10	2.86	2.65	2.43	2.22	2.00
VANCE	NC	3.10	2.86	2.64	2.43	2.21	1.99
WAKE	NC	3.10	2.89	2.70	2.50	2.31	2.12
WARREN	NC	3.10	2.86	2.65	2.43	2.22	2.00
WASHINGTON	NC	3.30	3.05	2.87	2.69	2.51	2.33
WATAUGA	NC	2.95	2.70	2.46	2.23	1.99	1.76
WAYNE	NC	3.20	3.05	2.87	2.68	2.50	2.32
WILKES	NC	2.95	2.70	2.47	2.24	2.01	1.78
WILSON	NC	3.20	3.03	2.83	2.62	2.42	2.22
YADKIN	NC	3.10	2.71	2.49	2.26	2.04	1.82
YANCEY	NC	2.95	2.71	2.49	2.26	2.04	1.82
ADAMS	ND	1.65	1.15	1.10	1.05	1.00	0.95
BARNES	ND	1.65	1.15	1.10	1.05	1.00	0.95
BENSON	ND	1.60	1.15	1.11	1.06	1.02	0.97
BILLINGS	ND	1.60	1.16	1.12	1.09	1.05	1.01
BOTTINEAU	ND	1.60	1.16	1.12	1.07	1.03	0.99
BOWMAN	ND	1.65	1.15	1.11	1.06	1.02	0.97
BURKE	ND	1.60	1.16	1.13	1.09	1.06	1.02
BURLEIGH	ND	1.65	1.15	1.10	1.06	1.01	0.96
CASS	ND	1.65	1.14	1.08	1.01	0.95	0.89
CAVALIER	ND	1.60	1.15	1.10	1.06	1.01	0.96
DICKEY	ND	1.65	1.15	1.10	1.05	1.00	0.95
DIVIDE	ND	1.60	1.17	1.14	1.10	1.07	1.04
DUNN	ND	1.60	1.16	1.12	1.07	1.03	0.99
EDDY	ND	1.65	1.16	1.11	1.07	1.02	0.98
EMMONS	ND	1.65	1.15	1.10	1.05	1.00	0.95
FOSTER	ND	1.65	1.15	1.11	1.06	1.02	0.97
GOLDEN VALLEY	ND	1.60	1.16	1.13	1.09	1.06	1.02
GRAND FORKS	ND	1.65	1.16	1.12	1.08	1.04	1.00
GRANT	ND	1.65	1.15	1.10	1.05	1.00	0.95
GRIGGS	ND	1.65	1.15	1.11	1.06	1.02	0.97
HETTINGER	ND	1.65	1.15	1.10	1.06	1.01	0.96
KIDDER	ND	1.65	1.15	1.11	1.06	1.02	0.97
LA MOURE	ND	1.65	1.15	1.10	1.05	1.00	0.95
LOGAN	ND	1.65	1.15	1.10	1.05	1.00	0.95
MCHENRY	ND	1.60	1.16	1.11	1.07	1.02	0.98
MCINTOSH	ND	1.65	1.15	1.10	1.05	1.00	0.95
MCKENZIE	ND	1.60	1.17	1.13	1.10	1.06	1.03
MCLEAN	ND	1.60	1.16	1.11	1.07	1.02	0.98
MERCER	ND	1.60	1.16	1.11	1.07	1.02	0.98
MORTON	ND	1.65	1.15	1.10	1.06	1.01	0.96

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MOUNTRAIL	ND	1.60	1.16	1.12	1.09	1.05	1.01
NELSON	ND	1.65	1.16	1.11	1.07	1.02	0.98
OLIVER	ND	1.60	1.15	1.11	1.06	1.02	0.97
PEMBINA	ND	1.60	1.14	1.09	1.03	0.98	0.92
PIERCE	ND	1.60	1.15	1.11	1.06	1.02	0.97
RAMSEY	ND	1.60	1.16	1.11	1.07	1.02	0.98
RANSOM	ND	1.65	1.14	1.09	1.03	0.98	0.92
RENVILLE	ND	1.60	1.16	1.12	1.08	1.04	1.00
RICHLAND	ND	1.65	1.14	1.08	1.03	0.97	0.91
ROLETTE	ND	1.60	1.16	1.11	1.07	1.02	0.98
SARGENT	ND	1.65	1.15	1.09	1.04	0.98	0.93
SHERIDAN	ND	1.60	1.15	1.11	1.06	1.02	0.97
SIOUX	ND	1.65	1.15	1.10	1.05	1.00	0.95
SLOPE	ND	1.65	1.16	1.12	1.07	1.03	0.99
STARK	ND	1.60	1.16	1.12	1.07	1.03	0.99
STEELE	ND	1.65	1.15	1.11	1.06	1.02	0.97
STUTSMAN	ND	1.65	1.15	1.10	1.05	1.00	0.95
TOWNER	ND	1.60	1.15	1.11	1.06	1.02	0.97
TRAILL	ND	1.65	1.15	1.10	1.05	1.00	0.95
WALSH	ND	1.60	1.15	1.10	1.06	1.01	0.96
WARD	ND	1.60	1.16	1.12	1.07	1.03	0.99
WELLS	ND	1.65	1.15	1.11	1.06	1.02	0.97
WILLIAMS	ND	1.60	1.17	1.13	1.10	1.06	1.03
ADAMS	NE	1.80	1.65	1.54	1.44	1.33	1.23
ANTELOPE	NE	1.75	1.54	1.44	1.33	1.23	1.12
ARTHUR	NE	1.80	1.22	1.17	1.12	1.07	1.02
BANNER	NE	1.80	1.72	1.54	1.37	1.19	1.01
BLAINE	NE	1.75	1.37	1.29	1.22	1.14	1.07
BOONE	NE	1.80	1.64	1.52	1.41	1.29	1.18
BOX BUTTE	NE	1.80	1.72	1.53	1.35	1.16	0.98
BOYD	NE	1.75	1.45	1.35	1.25	1.16	1.06
BROWN	NE	1.75	1.42	1.32	1.22	1.13	1.03
BUFFALO	NE	1.80	1.63	1.51	1.40	1.28	1.16
BURT	NE	1.80	1.68	1.61	1.53	1.46	1.39
BUTLER	NE	1.80	1.67	1.59	1.50	1.42	1.34
CASS	NE	1.85	1.70	1.66	1.61	1.57	1.52
CEDAR	NE	1.75	1.56	1.46	1.35	1.25	1.14
CHASE	NE	1.80	1.62	1.49	1.35	1.22	1.09
CHERRY	NE	1.75	1.39	1.29	1.19	1.08	0.98
CHEYENNE	NE	1.80	1.72	1.55	1.37	1.20	1.02
CLAY	NE	1.80	1.65	1.55	1.46	1.36	1.26
COLFAX	NE	1.80	1.66	1.57	1.48	1.39	1.30
CUMING	NE	1.80	1.59	1.52	1.44	1.37	1.29
CUSTER	NE	1.80	1.62	1.49	1.37	1.24	1.11
DAKOTA	NE	1.75	1.65	1.56	1.46	1.37	1.27
DAWES	NE	1.80	1.71	1.52	1.34	1.15	0.96
DAWSON	NE	1.80	1.62	1.50	1.37	1.25	1.12
DEUEL	NE	1.80	1.73	1.55	1.38	1.20	1.03
DIXON	NE	1.75	1.64	1.53	1.42	1.31	1.20
DODGE	NE	1.80	1.68	1.61	1.54	1.47	1.40
DOUGLAS	NE	1.85	1.70	1.66	1.61	1.57	1.52
DUNDY	NE	1.80	1.62	1.50	1.37	1.25	1.12
FILLMORE	NE	1.80	1.66	1.57	1.49	1.40	1.31
FRANKLIN	NE	1.80	1.64	1.54	1.43	1.33	1.22
FRONTIER	NE	1.80	1.62	1.50	1.37	1.25	1.12
FURNAS	NE	1.80	1.62	1.50	1.37	1.25	1.12
GAGE	NE	1.85	1.68	1.61	1.54	1.47	1.40
GARDEN	NE	1.80	1.72	1.54	1.37	1.19	1.01
GARFIELD	NE	1.75	1.46	1.37	1.28	1.20	1.11
GOSPER	NE	1.80	1.63	1.51	1.38	1.26	1.14
GRANT	NE	1.75	1.23	1.17	1.11	1.05	0.99
GREELEY	NE	1.80	1.63	1.52	1.40	1.29	1.17
HALL	NE	1.80	1.64	1.53	1.43	1.32	1.21
HAMILTON	NE	1.80	1.65	1.55	1.45	1.35	1.25
HARLAN	NE	1.80	1.64	1.53	1.41	1.30	1.19
HAYES	NE	1.80	1.62	1.49	1.37	1.24	1.11
HITCHCOCK	NE	1.80	1.63	1.50	1.38	1.25	1.13
HOLT	NE	1.75	1.51	1.40	1.29	1.19	1.08
HOOKER	NE	1.75	1.29	1.22	1.14	1.07	1.00
HOWARD	NE	1.80	1.63	1.52	1.40	1.29	1.17

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
JEFFERSON	NE	1.80	1.67	1.59	1.51	1.43	1.35
JOHNSON	NE	1.85	1.69	1.63	1.57	1.51	1.45
KEARNEY	NE	1.80	1.64	1.53	1.41	1.30	1.19
KEITH	NE	1.80	1.61	1.47	1.32	1.18	1.04
KEYA PAHA	NE	1.75	1.42	1.32	1.22	1.13	1.03
KIMBALL	NE	1.80	1.72	1.55	1.37	1.20	1.02
KNOX	NE	1.75	1.62	1.49	1.36	1.23	1.10
LANCASTER	NE	1.85	1.68	1.61	1.54	1.47	1.40
LINCOLN	NE	1.80	1.61	1.48	1.34	1.21	1.07
LOGAN	NE	1.80	1.32	1.26	1.20	1.15	1.09
LOUP	NE	1.75	1.43	1.35	1.26	1.18	1.10
MADISON	NE	1.80	1.27	1.22	1.16	1.11	1.05
MCPHERSON	NE	1.80	1.64	1.53	1.41	1.30	1.19
MERRICK	NE	1.80	1.65	1.54	1.44	1.33	1.23
MORRILL	NE	1.80	1.72	1.54	1.36	1.18	1.00
NANCE	NE	1.80	1.64	1.54	1.43	1.33	1.22
NEMAHA	NE	1.85	1.70	1.65	1.60	1.55	1.50
NUCKOLLS	NE	1.80	1.65	1.56	1.46	1.37	1.27
OTOE	NE	1.85	1.70	1.65	1.59	1.54	1.49
PAWNEE	NE	1.85	1.69	1.62	1.56	1.49	1.43
PERKINS	NE	1.80	1.61	1.47	1.33	1.19	1.05
PHELPS	NE	1.80	1.63	1.52	1.40	1.29	1.17
PIERCE	NE	1.75	1.57	1.46	1.35	1.24	1.13
PLATTE	NE	1.80	1.65	1.55	1.46	1.36	1.26
POLK	NE	1.80	1.66	1.56	1.47	1.37	1.28
RED WILLOW	NE	1.80	1.63	1.51	1.40	1.28	1.16
RICHARDSON	NE	1.85	1.70	1.64	1.59	1.53	1.48
ROCK	NE	1.75	1.43	1.34	1.24	1.15	1.05
SALINE	NE	1.80	1.67	1.59	1.52	1.44	1.36
SARPY	NE	1.85	1.71	1.67	1.62	1.58	1.54
SAUNDERS	NE	1.85	1.69	1.63	1.56	1.50	1.44
SCOTTS BLUFF	NE	1.80	1.72	1.54	1.37	1.19	1.01
SEWARD	NE	1.80	1.67	1.59	1.51	1.43	1.35
SHERIDAN	NE	1.80	1.71	1.53	1.34	1.16	0.97
SHERMAN	NE	1.80	1.63	1.51	1.39	1.27	1.15
SIOUX	NE	1.80	1.71	1.53	1.34	1.16	0.97
STANTON	NE	1.80	1.65	1.54	1.44	1.33	1.23
THAYER	NE	1.80	1.66	1.58	1.49	1.41	1.32
THOMAS	NE	1.75	1.32	1.24	1.17	1.09	1.02
THURSTON	NE	1.75	1.66	1.57	1.48	1.39	1.30
VALLEY	NE	1.80	1.63	1.51	1.38	1.26	1.14
WASHINGTON	NE	1.85	1.70	1.64	1.59	1.53	1.48
WAYNE	NE	1.75	1.64	1.53	1.42	1.31	1.20
WEBSTER	NE	1.80	1.65	1.55	1.44	1.34	1.24
WHEELER	NE	1.75	1.52	1.42	1.32	1.23	1.13
YORK	NE	1.80	1.66	1.57	1.47	1.38	1.29
BELKNAP	NH	2.80	2.80	2.58	2.36	2.14	1.92
CARROLL	NH	2.80	2.76	2.52	2.29	2.05	1.82
CHESHIRE	NH	2.80	2.82	2.60	2.38	2.16	1.94
COOS	NH	2.60	2.41	2.22	2.02	1.83	1.64
GRAFTON	NH	2.60	2.49	2.31	2.12	1.94	1.76
HILLSBOROUGH	NH	3.00	2.95	2.72	2.50	2.27	2.05
MERRIMACK	NH	3.00	2.86	2.63	2.41	2.18	1.95
ROCKINGHAM	NH	3.00	2.96	2.75	2.54	2.33	2.12
STRAFFORD	NH	3.00	2.86	2.65	2.44	2.23	2.02
SULLIVAN	NH	2.80	2.74	2.51	2.28	2.05	1.82
ATLANTIC	NJ	3.00	2.73	2.53	2.33	2.13	1.93
BERGEN	NJ	3.15	2.92	2.69	2.47	2.24	2.02
BURLINGTON	NJ	3.00	2.82	2.58	2.35	2.11	1.88
CAMDEN	NJ	3.00	2.84	2.59	2.34	2.09	1.84
CAPE MAY	NJ	3.00	2.71	2.52	2.33	2.14	1.95
CUMBERLAND	NJ	3.00	2.72	2.49	2.27	2.04	1.82
ESSEX	NJ	3.15	2.91	2.67	2.44	2.20	1.97
GLOUCESTER	NJ	3.00	2.83	2.57	2.32	2.06	1.80
HUDSON	NJ	3.15	2.92	2.69	2.47	2.24	2.02
HUNTERDON	NJ	3.10	2.82	2.57	2.31	2.06	1.81
MERCER	NJ	3.10	2.86	2.62	2.39	2.15	1.92
MIDDLESEX	NJ	3.10	2.87	2.64	2.42	2.19	1.97
MONMOUTH	NJ	3.10	2.83	2.63	2.42	2.22	2.01
MORRIS	NJ	3.10	2.85	2.62	2.38	2.15	1.91

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
OCEAN	NJ	3.10	2.74	2.56	2.37	2.19	2.00
PASSAIC	NJ	3.15	2.90	2.66	2.43	2.19	1.95
SALEM	NJ	3.00	2.82	2.55	2.29	2.02	1.75
SOMERSET	NJ	3.10	2.84	2.61	2.37	2.14	1.91
SUSSEX	NJ	3.10	2.77	2.53	2.30	2.06	1.83
UNION	NJ	3.15	2.91	2.67	2.44	2.20	1.97
WARREN	NJ	3.10	2.79	2.53	2.28	2.02	1.77
BERNALILLO	NM	2.35	2.25	2.16	2.06	1.97	1.87
CATRON	NM	2.10	2.18	2.01	1.84	1.67	1.50
CHAVES	NM	2.10	2.04	1.89	1.73	1.58	1.42
CIBOLA	NM	1.90	2.23	2.11	1.99	1.87	1.75
COLFAX	NM	2.35	2.24	2.12	2.01	1.89	1.78
CURRY	NM	2.10	2.13	1.92	1.70	1.49	1.27
DE BACA	NM	2.10	2.17	1.99	1.81	1.63	1.45
DONA ANA	NM	2.10	2.15	1.95	1.76	1.56	1.36
EDDY	NM	2.10	2.06	1.92	1.78	1.64	1.50
GRANT	NM	2.10	2.16	1.96	1.77	1.57	1.38
GUADALUPE	NM	2.35	2.21	2.06	1.92	1.77	1.63
HARDING	NM	2.35	2.20	2.05	1.90	1.75	1.60
HIDALGO	NM	2.10	2.15	1.94	1.74	1.53	1.33
LEA	NM	2.10	2.07	1.94	1.80	1.67	1.54
LINCOLN	NM	2.10	2.18	2.01	1.84	1.67	1.50
LOS ALAMOS	NM	2.35	2.29	2.23	2.16	2.10	2.04
LUNA	NM	2.10	2.15	1.95	1.76	1.56	1.36
MCKINLEY	NM	1.90	2.23	2.11	1.99	1.87	1.75
MORA	NM	2.35	2.25	2.16	2.06	1.97	1.87
OTERO	NM	2.10	2.17	1.99	1.80	1.62	1.44
QUAY	NM	2.35	2.17	1.99	1.81	1.63	1.45
RIO ARRIBA	NM	1.90	2.28	2.20	2.13	2.05	1.98
ROOSEVELT	NM	2.10	2.13	1.91	1.69	1.47	1.25
SAN JUAN	NM	2.35	2.27	2.19	2.12	2.04	1.96
SAN MIGUEL	NM	1.90	2.13	2.06	1.98	1.91	1.84
SANDOVAL	NM	2.35	2.26	2.16	2.07	1.97	1.88
SANTA FE	NM	2.35	2.28	2.22	2.15	2.09	2.02
SIERRA	NM	2.10	2.17	1.99	1.82	1.64	1.46
SOCORRO	NM	2.10	2.20	2.05	1.90	1.75	1.60
TAOS	NM	1.90	2.27	2.18	2.10	2.01	1.93
TORRANCE	NM	2.35	2.23	2.11	2.00	1.88	1.76
UNION	NM	2.35	2.19	2.04	1.88	1.73	1.57
VALENCIA	NM	2.35	2.23	2.11	2.00	1.88	1.76
CARSON CITY	NV	1.70	1.16	1.08	0.99	0.91	0.83
CHURCHILL	NV	1.70	1.22	1.14	1.05	0.97	0.88
CLARK	NV	2.00	1.65	1.69	1.74	1.78	1.83
DOUGLAS	NV	1.70	1.15	1.08	1.00	0.93	0.85
ELKO	NV	1.90	1.72	1.54	1.36	1.18	1.00
ESMERALDA	NV	1.60	1.24	1.20	1.15	1.11	1.06
EUREKA	NV	1.70	1.49	1.39	1.28	1.18	1.07
HUMBOLDT	NV	1.70	1.42	1.30	1.19	1.07	0.95
LANDER	NV	1.70	1.43	1.32	1.22	1.11	1.00
LINCOLN	NV	1.60	1.59	1.59	1.58	1.58	1.57
LYON	NV	1.70	0.97	0.94	0.90	0.87	0.84
MINERAL	NV	1.60	1.17	1.10	1.04	0.97	0.90
NYE	NV	1.60	1.47	1.39	1.30	1.22	1.14
PERSHING	NV	1.70	1.39	1.27	1.16	1.04	0.93
STOREY	NV	1.70	1.15	1.06	0.98	0.89	0.81
WASHOE	NV	1.70	1.16	1.09	1.02	0.95	0.88
WHITE PINE	NV	1.90	1.77	1.63	1.50	1.36	1.23
ALBANY	NY	2.60	2.42	2.24	2.06	1.88	1.70
ALLEGANY	NY	2.30	2.08	1.89	1.70	1.51	1.32
BRONX	NY	3.15	2.93	2.71	2.50	2.28	2.07
BROOME	NY	2.60	2.31	2.07	1.84	1.60	1.36
CATTARAUGUS	NY	2.10	1.93	1.77	1.60	1.44	1.27
CAYUGA	NY	2.30	2.14	1.93	1.73	1.52	1.31
CHAUTAUQUA	NY	2.10	1.86	1.70	1.55	1.39	1.23
CHEMUNG	NY	2.40	2.18	1.96	1.74	1.52	1.30
CHENANGO	NY	2.40	2.28	2.06	1.84	1.62	1.40
CLINTON	NY	2.20	2.07	1.94	1.82	1.69	1.56
COLUMBIA	NY	2.80	2.52	2.34	2.17	1.99	1.81
CORTLAND	NY	2.40	2.22	2.00	1.77	1.55	1.32
DELAWARE	NY	2.60	2.35	2.15	1.95	1.75	1.55

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
DUTCHESS	NY	2.80	2.59	2.43	2.26	2.10	1.94
ERIE	NY	2.20	1.93	1.79	1.64	1.50	1.36
ESSEX	NY	2.40	2.17	2.02	1.87	1.72	1.57
FRANKLIN	NY	2.20	2.00	1.88	1.75	1.63	1.51
FULTON	NY	2.60	2.31	2.13	1.94	1.76	1.58
GENESEE	NY	2.20	2.01	1.85	1.70	1.54	1.38
GREENE	NY	2.60	2.51	2.31	2.12	1.92	1.73
HAMILTON	NY	2.40	2.24	2.06	1.89	1.71	1.53
HERKIMER	NY	2.40	2.27	2.07	1.88	1.68	1.48
JEFFERSON	NY	2.20	2.04	1.88	1.73	1.57	1.41
KINGS	NY	3.15	2.92	2.70	2.48	2.26	2.04
LEWIS	NY	2.20	2.14	1.96	1.78	1.60	1.42
LIVINGSTON	NY	2.30	2.01	1.84	1.68	1.51	1.35
MADISON	NY	2.40	2.19	1.99	1.78	1.58	1.37
MONROE	NY	2.30	2.02	1.86	1.71	1.55	1.40
MONTGOMERY	NY	2.60	2.36	2.17	1.97	1.78	1.59
NASSAU	NY	3.15	2.94	2.73	2.53	2.32	2.12
NEW YORK	NY	3.15	2.92	2.70	2.47	2.25	2.03
NIAGARA	NY	2.20	1.94	1.80	1.67	1.53	1.40
ONEIDA	NY	2.40	2.18	1.98	1.79	1.59	1.40
ONONDAGA	NY	2.40	2.14	1.93	1.73	1.52	1.31
ONTARIO	NY	2.30	2.09	1.90	1.72	1.53	1.35
ORANGE	NY	3.00	2.81	2.58	2.34	2.11	1.88
ORLEANS	NY	2.20	2.02	1.86	1.71	1.55	1.40
OSWEGO	NY	2.30	2.11	1.92	1.73	1.54	1.35
OTSEGO	NY	2.60	2.30	2.10	1.91	1.71	1.51
PUTNAM	NY	3.00	2.84	2.64	2.44	2.24	2.04
QUEENS	NY	3.15	2.93	2.71	2.50	2.28	2.07
RENSSELAER	NY	2.60	2.43	2.26	2.09	1.92	1.75
RICHMOND	NY	3.15	2.92	2.69	2.47	2.24	2.02
ROCKLAND	NY	3.15	2.91	2.68	2.46	2.23	2.00
SARATOGA	NY	2.60	2.35	2.17	2.00	1.82	1.65
SCHENECTADY	NY	2.60	2.41	2.22	2.04	1.85	1.66
SCHOHARIE	NY	2.60	2.40	2.20	2.01	1.81	1.61
SCHUYLER	NY	2.30	2.16	1.94	1.73	1.51	1.30
SENECA	NY	2.30	2.08	1.89	1.70	1.51	1.32
ST. LAWRENCE	NY	2.20	1.99	1.85	1.72	1.58	1.45
STEUBEN	NY	2.30	2.12	1.92	1.72	1.52	1.32
SUFFOLK	NY	3.15	2.96	2.79	2.61	2.44	2.26
SULLIVAN	NY	2.80	2.50	2.30	2.10	1.90	1.70
TIOGA	NY	2.40	2.28	2.03	1.79	1.54	1.30
TOMPKINS	NY	2.40	2.24	2.00	1.77	1.53	1.30
ULSTER	NY	2.80	2.56	2.37	2.18	1.99	1.80
WARREN	NY	2.60	2.25	2.09	1.92	1.76	1.59
WASHINGTON	NY	2.60	2.31	2.14	1.98	1.81	1.65
WAYNE	NY	2.30	2.09	1.91	1.72	1.54	1.36
WESTCHESTER	NY	3.15	2.93	2.71	2.50	2.28	2.07
WYOMING	NY	2.20	2.01	1.85	1.68	1.52	1.36
YATES	NY	2.30	2.12	1.92	1.72	1.52	1.32
ADAMS	OH	2.20	2.00	1.89	1.78	1.67	1.56
ALLEN	OH	2.00	1.77	1.65	1.52	1.40	1.27
ASHLAND	OH	2.00	1.88	1.76	1.64	1.52	1.40
ASHTABULA	OH	2.00	1.88	1.77	1.65	1.54	1.42
ATHENS	OH	2.00	2.01	1.91	1.81	1.71	1.61
AUGLAIZE	OH	2.00	1.78	1.66	1.55	1.43	1.31
BELMONT	OH	2.00	1.92	1.84	1.75	1.67	1.59
BROWN	OH	2.20	1.99	1.87	1.75	1.63	1.51
BUTLER	OH	2.00	1.92	1.80	1.69	1.57	1.45
CARROLL	OH	2.00	1.90	1.80	1.70	1.60	1.50
CHAMPAIGN	OH	2.00	1.93	1.81	1.70	1.58	1.47
CLARK	OH	2.00	1.92	1.81	1.69	1.58	1.46
CLERMONT	OH	2.20	1.98	1.86	1.73	1.61	1.48
CLINTON	OH	2.00	1.93	1.82	1.72	1.61	1.50
COLUMBIANA	OH	2.00	1.90	1.80	1.69	1.59	1.49
COSHOCTON	OH	2.00	1.93	1.82	1.70	1.59	1.48
CRAWFORD	OH	2.00	1.80	1.69	1.59	1.48	1.38
CUYAHOGA	OH	2.00	1.91	1.82	1.72	1.63	1.54
DARKE	OH	2.00	1.80	1.70	1.61	1.51	1.41
DEFIANCE	OH	1.80	1.69	1.59	1.48	1.38	1.27
DELAWARE	OH	2.00	1.93	1.82	1.70	1.59	1.48

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
ERIE	OH	2.00	1.73	1.65	1.58	1.50	1.43
FAIRFIELD	OH	2.00	1.95	1.86	1.76	1.67	1.58
FAYETTE	OH	2.00	1.94	1.84	1.74	1.64	1.54
FRANKLIN	OH	2.00	1.95	1.85	1.76	1.66	1.57
FULTON	OH	1.80	1.70	1.61	1.51	1.42	1.32
GALLIA	OH	2.20	2.02	1.93	1.84	1.75	1.66
GEAUGA	OH	2.00	1.90	1.79	1.69	1.58	1.48
GREENE	OH	2.00	1.93	1.82	1.70	1.59	1.48
GUERNSEY	OH	2.00	1.94	1.84	1.73	1.63	1.53
HAMILTON	OH	2.20	1.98	1.85	1.71	1.58	1.45
HANCOCK	OH	2.00	1.69	1.59	1.48	1.38	1.27
HARDIN	OH	2.00	1.79	1.68	1.56	1.45	1.34
HARRISON	OH	2.00	1.91	1.82	1.74	1.65	1.56
HENRY	OH	1.80	1.69	1.58	1.48	1.37	1.26
HIGHLAND	OH	2.20	1.99	1.88	1.76	1.65	1.53
HOCKING	OH	2.00	1.95	1.86	1.78	1.69	1.60
HOLMES	OH	2.00	1.89	1.77	1.66	1.54	1.43
HURON	OH	2.00	1.72	1.64	1.57	1.49	1.41
JACKSON	OH	2.20	2.01	1.91	1.82	1.72	1.62
JEFFERSON	OH	2.00	1.92	1.84	1.76	1.68	1.60
KNOX	OH	2.00	1.92	1.80	1.69	1.57	1.45
LAKE	OH	2.00	1.90	1.80	1.69	1.59	1.49
LAWRENCE	OH	2.20	2.02	1.93	1.85	1.76	1.67
LICKING	OH	2.00	1.94	1.84	1.73	1.63	1.53
LOGAN	OH	2.00	1.80	1.70	1.59	1.49	1.39
LORAIN	OH	2.00	1.89	1.79	1.68	1.58	1.47
LUCAS	OH	1.80	1.72	1.64	1.55	1.47	1.39
MADISON	OH	2.00	1.94	1.83	1.73	1.62	1.52
MAHONING	OH	2.00	1.89	1.79	1.68	1.58	1.47
MARION	OH	2.00	1.80	1.70	1.60	1.50	1.40
MEDINA	OH	2.00	1.89	1.78	1.67	1.56	1.45
MEIGS	OH	2.00	2.02	1.93	1.83	1.74	1.65
MERCER	OH	2.00	1.79	1.68	1.57	1.46	1.35
MIAMI	OH	2.00	1.92	1.79	1.67	1.54	1.42
MONROE	OH	2.00	1.92	1.84	1.75	1.67	1.59
MONTGOMERY	OH	2.00	1.92	1.80	1.69	1.57	1.45
MORGAN	OH	2.00	1.95	1.86	1.76	1.67	1.58
MORROW	OH	2.00	1.80	1.71	1.61	1.52	1.42
MUSKINGUM	OH	2.00	1.94	1.84	1.73	1.63	1.53
NOBLE	OH	2.00	1.94	1.85	1.75	1.66	1.56
OTTAWA	OH	2.00	1.72	1.64	1.56	1.48	1.40
PAULDING	OH	1.80	1.69	1.59	1.48	1.38	1.27
PERRY	OH	2.00	1.95	1.85	1.76	1.66	1.57
PICKAWAY	OH	2.00	1.95	1.85	1.76	1.66	1.57
PIKE	OH	2.20	2.01	1.90	1.80	1.69	1.59
PORTAGE	OH	2.00	1.89	1.78	1.68	1.57	1.46
PREBLE	OH	2.00	1.92	1.80	1.69	1.57	1.45
PUTNAM	OH	1.80	1.68	1.56	1.45	1.33	1.21
RICHLAND	OH	2.00	1.80	1.70	1.59	1.49	1.39
ROSS	OH	2.00	2.00	1.90	1.79	1.69	1.58
SANDUSKY	OH	2.00	1.72	1.63	1.55	1.46	1.38
SCIOTO	OH	2.20	2.01	1.91	1.82	1.72	1.62
SENECA	OH	2.00	1.71	1.62	1.54	1.45	1.36
SHELBY	OH	2.00	1.80	1.69	1.59	1.48	1.38
STARK	OH	2.00	1.88	1.76	1.64	1.52	1.40
SUMMIT	OH	2.00	1.89	1.79	1.68	1.58	1.47
TRUMBULL	OH	2.00	1.89	1.78	1.66	1.55	1.44
TUSCARAWAS	OH	2.00	1.89	1.79	1.68	1.58	1.47
UNION	OH	2.00	1.81	1.71	1.62	1.52	1.43
VAN WERT	OH	1.80	1.78	1.66	1.54	1.42	1.30
VINTON	OH	2.00	2.01	1.91	1.81	1.71	1.61
WARREN	OH	2.00	1.93	1.81	1.70	1.58	1.47
WASHINGTON	OH	2.00	2.01	1.90	1.80	1.69	1.59
WAYNE	OH	2.00	1.88	1.76	1.65	1.53	1.41
WILLIAMS	OH	1.80	1.70	1.59	1.49	1.38	1.28
WOOD	OH	2.00	1.71	1.61	1.52	1.42	1.33
WYANDOT	OH	2.00	1.79	1.68	1.57	1.46	1.35
ADAIR	OK	2.60	2.35	2.11	1.86	1.62	1.38
ALFALFA	OK	2.40	2.35	2.10	1.86	1.61	1.37
ATOKA	OK	2.80	2.69	2.37	2.06	1.74	1.43

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
BEAVER	OK	2.40	2.35	2.11	1.88	1.64	1.40
BECKHAM	OK	2.40	2.37	2.15	1.92	1.70	1.48
BLAINE	OK	2.40	2.36	2.12	1.89	1.65	1.42
BRYAN	OK	2.80	2.68	2.37	2.05	1.74	1.42
CADDO	OK	2.60	2.51	2.25	1.98	1.72	1.46
CANADIAN	OK	2.60	2.51	2.24	1.98	1.71	1.45
CARTER	OK	2.80	2.69	2.37	2.06	1.74	1.43
CHEROKEE	OK	2.60	2.35	2.11	1.88	1.64	1.40
CHOCTAW	OK	2.80	2.69	2.38	2.06	1.75	1.44
CIMARRON	OK	2.40	2.37	2.15	1.92	1.70	1.48
CLEVELAND	OK	2.60	2.51	2.24	1.98	1.71	1.45
COAL	OK	2.80	2.50	2.23	1.97	1.70	1.43
COMANCHE	OK	2.60	2.69	2.38	2.08	1.77	1.46
COTTON	OK	2.80	2.69	2.39	2.08	1.78	1.47
CRAIG	OK	2.40	2.34	2.09	1.84	1.59	1.34
CREEK	OK	2.60	2.36	2.14	1.91	1.69	1.46
CUSTER	OK	2.40	2.36	2.13	1.90	1.67	1.44
DELAWARE	OK	2.40	2.34	2.09	1.83	1.58	1.33
DEWEY	OK	2.40	2.36	2.13	1.89	1.66	1.43
ELLIS	OK	2.40	2.35	2.12	1.88	1.65	1.41
GARFIELD	OK	2.40	2.35	2.11	1.88	1.64	1.40
GARVIN	OK	2.60	2.50	2.24	1.97	1.71	1.44
GRADY	OK	2.60	2.51	2.24	1.98	1.71	1.45
GRANT	OK	2.40	2.34	2.10	1.85	1.61	1.36
GREER	OK	2.60	2.70	2.40	2.09	1.79	1.49
HARMON	OK	2.60	2.70	2.40	2.11	1.81	1.51
HARPER	OK	2.40	2.35	2.11	1.86	1.62	1.38
HASKELL	OK	2.80	2.51	2.25	2.00	1.74	1.48
HUGHES	OK	2.60	2.51	2.24	1.98	1.71	1.45
JACKSON	OK	2.60	2.70	2.40	2.10	1.80	1.50
JEFFERSON	OK	2.80	2.69	2.38	2.07	1.76	1.45
JOHNSTON	OK	2.80	2.68	2.37	2.05	1.74	1.42
KAY	OK	2.40	2.35	2.10	1.86	1.61	1.37
KINGFISHER	OK	2.40	2.36	2.12	1.89	1.65	1.42
KIOWA	OK	2.60	2.70	2.39	2.09	1.78	1.48
LATIMER	OK	2.80	2.51	2.25	2.00	1.74	1.48
LE FLORE	OK	2.80	2.52	2.27	2.03	1.78	1.53
LINCOLN	OK	2.60	2.51	2.24	1.98	1.71	1.45
LOGAN	OK	2.40	2.36	2.13	1.89	1.66	1.43
LOVE	OK	2.80	2.69	2.37	2.06	1.74	1.43
MAJOR	OK	2.60	2.50	2.24	1.97	1.71	1.44
MARSHALL	OK	2.80	2.71	2.42	2.13	1.84	1.55
MAYES	OK	2.60	2.51	2.25	1.98	1.72	1.46
MCCLAIN	OK	2.40	2.35	2.11	1.87	1.63	1.39
MCCURTAIN	OK	2.80	2.68	2.37	2.05	1.74	1.42
MCINTOSH	OK	2.40	2.35	2.11	1.86	1.62	1.38
MURRAY	OK	2.80	2.69	2.37	2.06	1.74	1.43
MUSKOGEE	OK	2.60	2.36	2.13	1.91	1.68	1.45
NOBLE	OK	2.40	2.35	2.12	1.88	1.65	1.41
NOWATA	OK	2.40	2.34	2.10	1.85	1.61	1.36
OKFUSKEE	OK	2.60	2.51	2.24	1.98	1.71	1.45
OKLAHOMA	OK	2.60	2.51	2.24	1.98	1.71	1.45
OKMULGEE	OK	2.60	2.36	2.14	1.91	1.69	1.46
OSAGE	OK	2.40	2.35	2.11	1.88	1.64	1.40
OTTAWA	OK	2.40	2.33	2.07	1.82	1.56	1.30
PAWNEE	OK	2.40	2.36	2.13	1.90	1.67	1.44
PAYNE	OK	2.40	2.36	2.13	1.90	1.67	1.44
PITTSBURG	OK	2.80	2.51	2.25	1.98	1.72	1.46
PONTOTOC	OK	2.80	2.50	2.23	1.97	1.70	1.43
POTTAWATOMIE	OK	2.60	2.51	2.24	1.98	1.71	1.45
PUSHMATAHA	OK	2.80	2.69	2.39	2.08	1.78	1.47
ROGER MILLS	OK	2.40	2.36	2.14	1.91	1.69	1.46
ROGERS	OK	2.40	2.35	2.11	1.88	1.64	1.40
SEMINOLE	OK	2.60	2.51	2.24	1.98	1.71	1.45
SEQUOYAH	OK	2.80	2.51	2.26	2.00	1.75	1.49
STEPHENS	OK	2.80	2.69	2.38	2.07	1.76	1.45
TEXAS	OK	2.40	2.35	2.12	1.88	1.65	1.41
TILLMAN	OK	2.60	2.70	2.40	2.09	1.79	1.49
TULSA	OK	2.60	2.36	2.14	1.91	1.69	1.46
WAGONER	OK	2.60	2.36	2.13	1.89	1.66	1.43

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
WASHINGTON	OK	2.40	2.35	2.11	1.86	1.62	1.38
WASHITA	OK	2.40	2.36	2.14	1.91	1.69	1.46
WOODS	OK	2.40	2.35	2.10	1.86	1.61	1.37
WOODWARD	OK	2.40	2.35	2.11	1.88	1.64	1.40
BAKER	OR	1.60	1.40	1.29	1.19	1.08	0.98
BENTON	OR	1.90	1.73	1.57	1.40	1.24	1.07
CLACKAMAS	OR	1.90	1.71	1.52	1.34	1.15	0.96
CLATSOP	OR	1.90	1.72	1.54	1.35	1.17	0.99
COLUMBIA	OR	1.90	1.71	1.53	1.34	1.16	0.97
COOS	OR	1.90	1.71	1.60	1.50	1.39	1.28
CROOK	OR	1.75	1.61	1.46	1.32	1.17	1.03
CURRY	OR	1.90	1.73	1.64	1.55	1.46	1.37
DESCHUTES	OR	1.75	1.61	1.48	1.34	1.21	1.07
DOUGLAS	OR	1.90	1.77	1.64	1.52	1.39	1.26
GILLIAM	OR	1.75	1.59	1.44	1.28	1.13	0.97
GRANT	OR	1.60	1.40	1.30	1.19	1.09	0.99
HARNEY	OR	1.60	1.40	1.30	1.21	1.11	1.01
HOOD RIVER	OR	1.90	1.71	1.53	1.34	1.16	0.97
JACKSON	OR	1.90	1.73	1.64	1.56	1.47	1.38
JEFFERSON	OR	1.75	1.60	1.46	1.31	1.17	1.02
JOSEPHINE	OR	1.90	1.74	1.65	1.57	1.48	1.40
KLAMATH	OR	1.75	1.65	1.55	1.46	1.36	1.26
LAKE	OR	1.75	1.62	1.50	1.37	1.25	1.12
LANE	OR	1.90	1.75	1.59	1.44	1.28	1.13
LINCOLN	OR	1.90	1.74	1.58	1.41	1.25	1.09
LINN	OR	1.90	1.73	1.56	1.39	1.22	1.05
MALHEUR	OR	1.60	1.39	1.28	1.18	1.07	0.96
MARION	OR	1.90	1.72	1.54	1.36	1.18	1.00
MORROW	OR	1.75	1.59	1.44	1.28	1.13	0.97
MULTNOMAH	OR	1.90	1.71	1.52	1.33	1.14	0.95
POLK	OR	1.90	1.73	1.55	1.38	1.20	1.03
SHERMAN	OR	1.75	1.59	1.44	1.28	1.13	0.97
TILLAMOOK	OR	1.90	1.72	1.54	1.37	1.19	1.01
UMATILLA	OR	1.75	1.59	1.44	1.28	1.13	0.97
UNION	OR	1.60	1.40	1.29	1.19	1.08	0.98
WALLOWA	OR	1.60	1.60	1.45	1.29	1.14	0.99
WASCO	OR	1.75	1.60	1.44	1.29	1.13	0.98
WASHINGTON	OR	1.90	1.71	1.52	1.34	1.15	0.96
WHEELER	OR	1.75	1.60	1.45	1.30	1.15	1.00
YAMHILL	OR	1.90	1.72	1.54	1.36	1.18	1.00
ADAMS	PA	2.80	2.70	2.38	2.05	1.73	1.40
ALLEGHENY	PA	2.10	1.91	1.81	1.72	1.62	1.53
ARMSTRONG	PA	2.30	1.89	1.78	1.67	1.56	1.45
BEAVER	PA	2.10	1.90	1.81	1.71	1.62	1.52
BEDFORD	PA	2.30	2.23	2.05	1.88	1.70	1.52
BERKS	PA	2.80	2.55	2.30	2.05	1.80	1.55
BLAIR	PA	2.30	2.18	2.01	1.83	1.66	1.49
BRADFORD	PA	2.40	2.37	2.11	1.84	1.58	1.32
BUCKS	PA	3.00	2.83	2.57	2.32	2.06	1.80
BUTLER	PA	2.10	1.89	1.78	1.66	1.55	1.44
CAMBRIA	PA	2.30	2.51	2.27	2.04	1.80	1.56
CAMERON	PA	2.30	1.87	1.74	1.62	1.49	1.36
CARBON	PA	2.80	2.55	2.32	2.08	1.85	1.61
CENTRE	PA	2.30	2.14	1.95	1.77	1.58	1.40
CHESTER	PA	3.00	2.80	2.51	2.21	1.92	1.63
CLARION	PA	2.30	1.88	1.75	1.63	1.50	1.38
CLEARFIELD	PA	2.30	2.16	1.98	1.79	1.61	1.42
CLINTON	PA	2.30	2.19	2.01	1.82	1.64	1.45
COLUMBIA	PA	2.60	2.46	2.23	1.99	1.76	1.52
CRAWFORD	PA	2.10	1.87	1.74	1.61	1.48	1.35
CUMBERLAND	PA	2.80	2.71	2.39	2.06	1.74	1.42
DAUPHIN	PA	2.80	2.48	2.23	1.97	1.72	1.47
DELAWARE	PA	3.00	2.81	2.53	2.25	1.97	1.69
ELK	PA	2.30	1.87	1.74	1.61	1.48	1.35
ERIE	PA	2.10	1.87	1.73	1.60	1.46	1.33
FAYETTE	PA	2.30	1.92	1.84	1.77	1.69	1.61
FOREST	PA	2.30	1.86	1.72	1.59	1.45	1.31
FRANKLIN	PA	2.80	2.58	2.26	1.95	1.63	1.31
FULTON	PA	2.60	2.59	2.30	2.01	1.72	1.43
GREENE	PA	2.10	1.92	1.85	1.77	1.70	1.62

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
HUNTINGDON	PA	2.30	2.21	2.02	1.82	1.63	1.44
INDIANA	PA	2.30	2.18	2.01	1.85	1.68	1.51
JEFFERSON	PA	2.30	1.88	1.76	1.65	1.53	1.41
JUNIATA	PA	2.60	2.55	2.27	1.98	1.70	1.41
LACKAWANNA	PA	2.60	2.45	2.22	2.00	1.77	1.55
LANCASTER	PA	2.80	2.61	2.33	2.06	1.78	1.50
LAWRENCE	PA	2.10	1.89	1.78	1.67	1.56	1.45
LEBANON	PA	2.80	2.62	2.34	2.05	1.77	1.49
LEHIGH	PA	2.80	2.80	2.51	2.21	1.92	1.63
LUZERNE	PA	2.60	2.43	2.21	1.98	1.76	1.54
LYCOMING	PA	2.60	2.30	2.11	1.91	1.72	1.53
MCKEAN	PA	2.30	1.98	1.80	1.63	1.45	1.28
MERCER	PA	2.10	1.88	1.75	1.63	1.50	1.38
MIFFLIN	PA	2.60	2.21	2.01	1.80	1.60	1.40
MONROE	PA	2.80	2.73	2.47	2.20	1.94	1.67
MONTGOMERY	PA	3.00	2.81	2.53	2.26	1.98	1.70
MONTOUR	PA	2.60	2.46	2.23	1.99	1.76	1.53
NORTHAMPTON	PA	2.80	2.61	2.38	2.16	1.93	1.70
NORTHUMBERLAND	PA	2.60	2.46	2.22	1.99	1.75	1.51
PERRY	PA	2.60	2.58	2.29	2.01	1.72	1.43
PHILADELPHIA	PA	3.00	2.83	2.56	2.30	2.03	1.77
PIKE	PA	2.80	2.74	2.48	2.23	1.97	1.71
POTTER	PA	2.30	2.09	1.90	1.72	1.53	1.35
SCHUYLKILL	PA	2.80	2.51	2.26	2.02	1.77	1.53
SNYDER	PA	2.60	2.43	2.19	1.96	1.72	1.49
SOMERSET	PA	2.30	2.20	2.05	1.91	1.76	1.61
SULLIVAN	PA	2.60	2.33	2.10	1.88	1.65	1.43
SUSQUEHANNA	PA	2.60	2.44	2.19	1.93	1.68	1.42
TIOGA	PA	2.30	2.16	1.96	1.77	1.57	1.38
UNION	PA	2.60	2.42	2.19	1.97	1.74	1.51
VENANGO	PA	2.10	1.87	1.74	1.62	1.49	1.36
WARREN	PA	2.10	1.85	1.70	1.55	1.40	1.25
WASHINGTON	PA	2.10	1.92	1.84	1.75	1.67	1.59
WAYNE	PA	2.60	2.47	2.25	2.02	1.80	1.57
WESTMORELAND	PA	2.30	1.91	1.83	1.74	1.66	1.57
WYOMING	PA	2.60	2.39	2.16	1.92	1.69	1.46
YORK	PA	2.80	2.72	2.40	2.09	1.77	1.46
BRISTOL	RI	3.25	3.07	2.89	2.72	2.54	2.37
KENT	RI	3.25	3.06	2.89	2.71	2.54	2.36
NEWPORT	RI	3.25	3.07	2.89	2.72	2.54	2.37
PROVIDENCE	RI	3.25	3.06	2.87	2.69	2.50	2.32
WASHINGTON	RI	3.25	3.06	2.88	2.70	2.52	2.34
ABBEVILLE	SC	3.10	2.92	2.75	2.59	2.42	2.26
AIKEN	SC	3.30	3.07	2.90	2.74	2.57	2.41
ALLENDALE	SC	3.30	3.10	2.96	2.83	2.69	2.56
ANDERSON	SC	3.10	2.90	2.73	2.55	2.38	2.20
BAMBERG	SC	3.30	3.09	2.94	2.80	2.65	2.51
BARNWELL	SC	3.30	3.08	2.93	2.78	2.63	2.48
BEAUFORT	SC	3.30	3.14	3.05	2.95	2.86	2.77
BERKELEY	SC	3.30	3.11	2.98	2.86	2.73	2.61
CALHOUN	SC	3.30	3.06	2.90	2.73	2.57	2.40
CHARLESTON	SC	3.30	3.12	3.01	2.89	2.78	2.67
CHEROKEE	SC	3.10	2.86	2.63	2.41	2.18	1.96
CHESTER	SC	3.10	2.88	2.68	2.47	2.27	2.07
CHESTERFIELD	SC	3.30	3.02	2.81	2.61	2.40	2.19
CLARENDON	SC	3.30	3.08	2.92	2.77	2.61	2.46
COLLETON	SC	3.30	3.11	2.99	2.86	2.74	2.62
DARLINGTON	SC	3.30	3.05	2.86	2.68	2.49	2.31
DILLON	SC	3.30	3.06	2.89	2.72	2.55	2.38
DORCHESTER	SC	3.30	3.11	2.98	2.86	2.73	2.61
EDGEFIELD	SC	3.30	3.05	2.87	2.69	2.51	2.33
FAIRFIELD	SC	3.30	3.02	2.81	2.59	2.38	2.17
FLORENCE	SC	3.30	3.07	2.90	2.74	2.57	2.41
GEORGETOWN	SC	3.30	3.11	3.00	2.88	2.77	2.65
GREENVILLE	SC	3.10	2.88	2.68	2.49	2.29	2.09
GREENWOOD	SC	3.10	2.91	2.75	2.58	2.42	2.25
HAMPTON	SC	3.30	3.11	2.99	2.88	2.76	2.64
HORRY	SC	3.30	3.11	2.98	2.86	2.73	2.61
JASPER	SC	3.30	3.13	3.03	2.94	2.84	2.74
KERSHAW	SC	3.30	3.03	2.83	2.62	2.42	2.22

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
LANCASTER	SC	3.10	2.88	2.68	2.48	2.28	2.08
LAURENS	SC	3.10	2.90	2.72	2.53	2.35	2.17
LEE	SC	3.30	3.05	2.87	2.68	2.50	2.32
LEXINGTON	SC	3.30	3.04	2.85	2.66	2.47	2.28
MARION	SC	3.10	2.93	2.78	2.63	2.48	2.33
MARLBORO	SC	3.30	3.08	2.92	2.77	2.61	2.46
MCCORMICK	SC	3.30	3.04	2.84	2.65	2.45	2.26
NEWBERRY	SC	3.30	3.02	2.81	2.61	2.40	2.19
OCONEE	SC	3.10	2.90	2.72	2.55	2.37	2.19
ORANGEBURG	SC	3.30	3.07	2.92	2.76	2.61	2.45
PICKENS	SC	3.10	2.89	2.70	2.51	2.32	2.13
RICHLAND	SC	3.30	3.04	2.85	2.66	2.47	2.28
SALUDA	SC	3.30	3.04	2.85	2.65	2.46	2.27
SPARTANBURG	SC	3.10	2.87	2.66	2.46	2.25	2.04
SUMTER	SC	3.30	3.06	2.89	2.71	2.54	2.37
UNION	SC	3.10	2.88	2.68	2.47	2.27	2.07
WILLIAMSBURG	SC	3.30	3.10	2.96	2.83	2.69	2.56
YORK	SC	3.10	2.86	2.64	2.41	2.19	1.97
AURORA	SD	1.70	1.41	1.32	1.22	1.13	1.04
BEADLE	SD	1.70	1.41	1.31	1.22	1.12	1.03
BENNETT	SD	1.70	1.39	1.27	1.16	1.04	0.93
BON HOMME	SD	1.75	1.42	1.34	1.26	1.18	1.10
BROOKINGS	SD	1.70	1.34	1.28	1.22	1.17	1.11
BROWN	SD	1.70	1.15	1.11	1.06	1.02	0.97
BRULE	SD	1.70	1.40	1.31	1.21	1.12	1.02
BUFFALO	SD	1.70	1.29	1.22	1.15	1.07	1.00
BUTTE	SD	1.65	1.14	1.08	1.03	0.97	0.91
CAMPBELL	SD	1.65	1.08	1.05	1.01	0.98	0.95
CHARLES MIX	SD	1.75	1.41	1.32	1.24	1.15	1.06
CLARK	SD	1.70	1.41	1.31	1.22	1.12	1.03
CLAY	SD	1.75	1.43	1.37	1.30	1.24	1.17
CODINGTON	SD	1.70	1.41	1.32	1.22	1.13	1.04
CORSON	SD	1.65	1.08	1.04	1.01	0.97	0.94
CUSTER	SD	1.80	1.82	1.59	1.36	1.13	0.90
DAVISON	SD	1.70	1.41	1.33	1.24	1.16	1.07
DAY	SD	1.70	1.16	1.12	1.07	1.03	0.99
DEUEL	SD	1.70	1.41	1.32	1.24	1.15	1.06
DEWEY	SD	1.65	1.12	1.08	1.03	0.99	0.94
DOUGLAS	SD	1.75	1.41	1.32	1.24	1.15	1.06
EDMUNDS	SD	1.70	1.15	1.10	1.05	1.00	0.95
FALL RIVER	SD	1.80	1.83	1.60	1.38	1.15	0.93
FAULK	SD	1.70	1.21	1.15	1.09	1.02	0.96
GRANT	SD	1.70	1.16	1.13	1.09	1.06	1.02
GREGORY	SD	1.75	1.40	1.31	1.21	1.12	1.02
HAAKON	SD	1.70	1.11	1.06	1.01	0.97	0.92
HAMLIN	SD	1.70	1.29	1.23	1.18	1.12	1.06
HAND	SD	1.70	1.27	1.20	1.13	1.07	1.00
HANSON	SD	1.70	1.42	1.33	1.25	1.16	1.08
HARDING	SD	1.65	1.71	1.52	1.33	1.14	0.95
HUGHES	SD	1.70	1.20	1.14	1.08	1.02	0.96
HUTCHINSON	SD	1.75	1.42	1.34	1.26	1.18	1.10
HYDE	SD	1.70	1.24	1.18	1.12	1.05	0.99
JACKSON	SD	1.70	1.38	1.27	1.15	1.04	0.92
JERAULD	SD	1.70	1.41	1.31	1.22	1.12	1.03
JONES	SD	1.70	1.21	1.15	1.08	1.02	0.95
KINGSBURY	SD	1.70	1.41	1.33	1.24	1.16	1.07
LAKE	SD	1.70	1.42	1.34	1.27	1.19	1.11
LAWRENCE	SD	1.80	1.82	1.59	1.36	1.13	0.90
LINCOLN	SD	1.75	1.44	1.38	1.31	1.25	1.19
LYMAN	SD	1.70	1.23	1.17	1.10	1.04	0.98
MARSHALL	SD	1.70	1.42	1.35	1.27	1.20	1.12
MCCOOK	SD	1.70	1.15	1.10	1.05	1.00	0.95
MCPHERSON	SD	1.70	1.15	1.10	1.06	1.01	0.96
MEADE	SD	1.65	1.78	1.56	1.33	1.11	0.89
MELLETTE	SD	1.70	1.39	1.28	1.16	1.05	0.94
MINER	SD	1.70	1.42	1.33	1.25	1.16	1.08
MINNEHAHA	SD	1.70	1.44	1.37	1.31	1.24	1.18
MOODY	SD	1.70	1.43	1.36	1.28	1.21	1.14
PENNINGTON	SD	1.80	1.81	1.58	1.34	1.11	0.87
PERKINS	SD	1.65	1.71	1.51	1.32	1.12	0.93

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
POTTER	SD	1.70	1.20	1.14	1.08	1.01	0.95
ROBERTS	SD	1.70	1.15	1.11	1.06	1.02	0.97
SANBORN	SD	1.70	1.41	1.32	1.23	1.14	1.05
SHANNON	SD	1.80	1.82	1.60	1.37	1.15	0.92
SPINK	SD	1.70	1.40	1.30	1.20	1.10	1.00
STANLEY	SD	1.70	1.20	1.13	1.07	1.00	0.94
SULLY	SD	1.70	1.18	1.12	1.07	1.01	0.96
TODD	SD	1.70	1.39	1.28	1.18	1.07	0.96
TRIPP	SD	1.70	1.40	1.30	1.19	1.09	0.99
TURNER	SD	1.75	1.43	1.36	1.30	1.23	1.16
UNION	SD	1.75	1.44	1.38	1.32	1.26	1.20
WALWORTH	SD	1.70	1.15	1.10	1.04	0.99	0.94
YANKTON	SD	1.75	1.42	1.34	1.27	1.19	1.11
ZIEBACH	SD	1.65	1.42	1.30	1.17	1.05	0.92
ANDERSON	TN	2.80	2.58	2.39	2.21	2.02	1.83
BEDFORD	TN	2.60	2.44	2.27	2.11	1.94	1.78
BENTON	TN	2.60	2.46	2.31	2.17	2.02	1.88
BLEDSOE	TN	2.60	2.46	2.32	2.18	2.04	1.90
BLOUNT	TN	2.80	2.61	2.45	2.29	2.13	1.97
BRADLEY	TN	2.80	2.64	2.50	2.37	2.23	2.10
CAMPBELL	TN	2.80	2.56	2.35	2.15	1.94	1.73
CANNON	TN	2.60	2.43	2.26	2.09	1.92	1.75
CARROLL	TN	2.60	2.47	2.34	2.20	2.07	1.94
CARTER	TN	2.80	2.57	2.37	2.17	1.97	1.77
CHEATHAM	TN	2.60	2.37	2.20	2.02	1.85	1.67
CHESTER	TN	2.80	2.49	2.38	2.28	2.17	2.06
CLAIBORNE	TN	2.80	2.57	2.37	2.16	1.96	1.76
CLAY	TN	2.60	2.36	2.17	1.98	1.79	1.60
COCKE	TN	2.80	2.59	2.42	2.24	2.07	1.89
COFFEE	TN	2.60	2.45	2.30	2.14	1.99	1.84
CROCKETT	TN	2.60	2.49	2.38	2.28	2.17	2.06
CUMBERLAND	TN	2.80	2.58	2.39	2.20	2.01	1.82
DAVIDSON	TN	2.60	2.37	2.19	2.01	1.83	1.65
DE KALB	TN	2.60	2.47	2.34	2.22	2.09	1.96
DECATUR	TN	2.60	2.43	2.25	2.08	1.90	1.73
DICKSON	TN	2.60	2.39	2.23	2.06	1.90	1.74
DYER	TN	2.60	2.49	2.38	2.26	2.15	2.04
FAYETTE	TN	2.80	2.67	2.57	2.48	2.38	2.28
FENTRESS	TN	2.60	2.37	2.20	2.02	1.85	1.67
FRANKLIN	TN	2.80	2.59	2.42	2.24	2.07	1.89
GIBSON	TN	2.60	2.48	2.36	2.23	2.11	1.99
GILES	TN	2.80	2.58	2.39	2.21	2.02	1.83
GRAINGER	TN	2.80	2.58	2.39	2.21	2.02	1.83
GREENE	TN	2.80	2.58	2.40	2.21	2.03	1.84
GRUNDY	TN	2.60	2.47	2.33	2.20	2.06	1.93
HAMBLEN	TN	2.80	2.58	2.40	2.21	2.03	1.84
HAMILTON	TN	2.80	2.64	2.50	2.37	2.23	2.10
HANCOCK	TN	2.80	2.57	2.37	2.16	1.96	1.76
HARDEMAN	TN	2.80	2.65	2.53	2.42	2.30	2.18
HARDIN	TN	2.80	2.62	2.47	2.33	2.18	2.03
HAWKINS	TN	2.80	2.58	2.38	2.19	1.99	1.80
HAYWOOD	TN	2.60	2.59	2.48	2.37	2.26	2.15
HENDERSON	TN	2.60	2.48	2.35	2.23	2.10	1.98
HENRY	TN	2.60	2.41	2.27	2.14	2.00	1.86
HICKMAN	TN	2.60	2.44	2.28	2.11	1.95	1.79
HOUSTON	TN	2.60	2.40	2.25	2.09	1.94	1.79
HUMPHREYS	TN	2.60	2.45	2.29	2.14	1.98	1.83
JACKSON	TN	2.60	2.37	2.19	2.00	1.82	1.64
JEFFERSON	TN	2.80	2.59	2.41	2.24	2.06	1.88
JOHNSON	TN	2.80	2.56	2.36	2.15	1.95	1.74
KNOX	TN	2.80	2.59	2.42	2.24	2.07	1.89
LAKE	TN	2.60	2.43	2.31	2.19	2.07	1.95
LAUDERDALE	TN	2.60	2.59	2.48	2.36	2.25	2.14
LAWRENCE	TN	2.80	2.59	2.41	2.24	2.06	1.88
LEWIS	TN	2.60	2.45	2.30	2.14	1.99	1.84
LINCOLN	TN	2.80	2.58	2.39	2.21	2.02	1.83
LOUDON	TN	2.80	2.60	2.44	2.27	2.11	1.94
MACON	TN	2.80	2.62	2.47	2.33	2.18	2.03
MADISON	TN	2.80	2.63	2.50	2.36	2.23	2.09
MARION	TN	2.60	2.36	2.17	1.97	1.78	1.59

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MARSHALL	TN	2.60	2.49	2.39	2.28	2.18	2.07
MAURY	TN	2.80	2.62	2.46	2.31	2.15	2.00
MCMINN	TN	2.60	2.44	2.27	2.11	1.94	1.78
MCNAIRY	TN	2.60	2.44	2.27	2.11	1.94	1.78
MEIGS	TN	2.80	2.61	2.45	2.30	2.14	1.98
MONROE	TN	2.80	2.62	2.47	2.32	2.17	2.02
MONTGOMERY	TN	2.60	2.38	2.21	2.05	1.88	1.71
MOORE	TN	2.80	2.58	2.39	2.21	2.02	1.83
MORGAN	TN	2.80	2.57	2.37	2.18	1.98	1.78
OBION	TN	2.60	2.42	2.30	2.17	2.05	1.92
OVERTON	TN	2.60	2.37	2.20	2.02	1.85	1.67
PERRY	TN	2.60	2.46	2.32	2.18	2.04	1.90
PICKETT	TN	2.60	2.36	2.17	1.97	1.78	1.59
POLK	TN	2.80	2.64	2.51	2.38	2.25	2.12
PUTNAM	TN	2.60	2.42	2.24	2.06	1.88	1.70
RHEA	TN	2.80	2.60	2.44	2.27	2.11	1.94
ROANE	TN	2.80	2.59	2.42	2.24	2.07	1.89
ROBERTSON	TN	2.60	2.37	2.19	2.00	1.82	1.64
RUTHERFORD	TN	2.60	2.42	2.24	2.07	1.89	1.71
SCOTT	TN	2.80	2.41	2.23	2.04	1.86	1.67
SEQUATCHIE	TN	2.80	2.61	2.45	2.29	2.13	1.97
SEVIER	TN	2.80	2.60	2.43	2.27	2.10	1.93
SHELBY	TN	2.80	2.69	2.61	2.54	2.46	2.38
SMITH	TN	2.60	2.37	2.19	2.01	1.83	1.65
STEWART	TN	2.60	2.40	2.25	2.10	1.95	1.80
SULLIVAN	TN	2.80	2.57	2.37	2.16	1.96	1.76
SUMNER	TN	2.60	2.36	2.18	1.99	1.81	1.62
TIPTON	TN	2.80	2.61	2.52	2.42	2.33	2.24
TROUSDALE	TN	2.60	2.36	2.18	1.99	1.81	1.62
UNICOI	TN	2.80	2.58	2.39	2.19	2.00	1.81
UNION	TN	2.80	2.58	2.39	2.19	2.00	1.81
VAN BUREN	TN	2.60	2.45	2.30	2.16	2.01	1.86
WARREN	TN	2.60	2.44	2.28	2.13	1.97	1.81
WASHINGTON	TN	2.80	2.57	2.38	2.18	1.99	1.79
WAYNE	TN	2.80	2.60	2.44	2.27	2.11	1.94
WEAKLEY	TN	2.60	2.42	2.29	2.17	2.04	1.91
WHITE	TN	2.60	2.43	2.27	2.10	1.94	1.77
WILLIAMSON	TN	2.60	2.42	2.24	2.05	1.87	1.69
WILSON	TN	2.60	2.37	2.19	2.02	1.84	1.66
ANDERSON	TX	3.15	3.04	2.77	2.50	2.23	1.96
ANDREWS	TX	2.40	2.70	2.46	2.21	1.97	1.72
ANGELINA	TX	3.15	3.10	2.86	2.61	2.37	2.13
ARANSAS	TX	3.65	3.49	3.29	3.08	2.88	2.68
ARCHER	TX	2.80	2.63	2.35	2.07	1.79	1.51
ARMSTRONG	TX	2.40	2.29	2.10	1.90	1.71	1.51
ATASCOSA	TX	3.45	2.70	2.60	2.51	2.41	2.31
AUSTIN	TX	3.60	3.44	3.18	2.93	2.67	2.41
BAILEY	TX	2.40	2.26	2.03	1.80	1.57	1.34
BANDERA	TX	3.30	2.66	2.52	2.37	2.23	2.09
BASTROP	TX	3.30	3.20	2.93	2.67	2.40	2.14
BAYLOR	TX	2.60	2.64	2.37	2.10	1.83	1.56
BEE	TX	3.65	3.45	3.21	2.98	2.74	2.50
BELL	TX	3.15	3.05	2.79	2.52	2.26	2.00
BEXAR	TX	3.45	3.30	3.03	2.75	2.48	2.20
BLANCO	TX	3.30	2.63	2.46	2.29	2.12	1.95
BORDEN	TX	2.40	2.70	2.45	2.19	1.94	1.69
BOSQUE	TX	3.15	3.02	2.73	2.45	2.16	1.87
BOWIE	TX	3.00	2.79	2.51	2.22	1.94	1.65
BRAZORIA	TX	3.60	3.48	3.26	3.03	2.81	2.59
BRAZOS	TX	3.30	3.16	2.96	2.77	2.57	2.37
BREWSTER	TX	2.40	2.13	2.06	1.99	1.92	1.85
BRISCOE	TX	2.40	2.30	2.11	1.91	1.72	1.53
BROOKS	TX	3.65	3.59	3.36	3.12	2.89	2.66
BROWN	TX	2.80	2.72	2.48	2.25	2.01	1.78
BURLESON	TX	3.30	3.14	2.93	2.71	2.50	2.28
BURNET	TX	3.30	3.15	2.84	2.52	2.21	1.90
CALDWELL	TX	3.45	3.29	3.00	2.70	2.41	2.12
CALHOUN	TX	3.65	3.47	3.25	3.04	2.82	2.60
CALLAHAN	TX	2.80	2.70	2.46	2.21	1.97	1.72
CAMERON	TX	3.65	3.67	3.43	3.19	2.95	2.71

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CAMP	TX	3.00	2.85	2.54	2.23	1.92	1.61
CARSON	TX	2.40	2.29	2.10	1.90	1.71	1.51
CASS	TX	3.00	2.81	2.54	2.27	2.00	1.73
CASTRO	TX	2.40	2.28	2.07	1.85	1.64	1.43
CHAMBERS	TX	3.60	3.46	3.23	2.99	2.76	2.52
CHEROKEE	TX	3.15	3.03	2.76	2.48	2.21	1.93
CHILDRESS	TX	2.40	2.30	2.11	1.91	1.72	1.53
CLAY	TX	2.80	2.62	2.34	2.05	1.77	1.48
COCHRAN	TX	2.40	2.27	2.05	1.83	1.61	1.39
COKE	TX	2.60	2.72	2.48	2.25	2.01	1.78
COLEMAN	TX	2.80	2.72	2.49	2.25	2.02	1.79
COLLIN	TX	3.00	2.84	2.51	2.19	1.86	1.54
COLLINGSWORTH	TX	2.40	2.29	2.10	1.90	1.71	1.51
COLORADO	TX	3.60	3.44	3.18	2.92	2.66	2.40
COMAL	TX	3.45	3.29	2.99	2.70	2.40	2.11
COMANCHE	TX	2.80	3.00	2.69	2.37	2.06	1.75
CONCHO	TX	2.80	2.45	2.29	2.14	1.98	1.83
COOKE	TX	3.00	2.82	2.48	2.13	1.79	1.45
CORYELL	TX	3.15	3.03	2.75	2.47	2.19	1.91
COTTLE	TX	2.40	2.31	2.12	1.94	1.75	1.57
CRANE	TX	2.40	2.13	2.05	1.98	1.90	1.83
CROCKETT	TX	2.60	2.30	2.20	2.11	2.01	1.91
CROSBY	TX	2.40	2.31	2.14	1.96	1.79	1.61
CULBERSON	TX	2.40	2.08	1.95	1.83	1.70	1.58
DALLAM	TX	2.40	2.29	2.10	1.90	1.71	1.51
DALLAS	TX	3.00	2.86	2.57	2.27	1.98	1.68
DAWSON	TX	2.40	2.70	2.45	2.19	1.94	1.69
DE WITT	TX	2.40	2.28	2.07	1.85	1.64	1.43
DEAF SMITH	TX	3.00	2.81	2.46	2.10	1.75	1.40
DELTA	TX	3.00	2.84	2.51	2.19	1.86	1.54
DENTON	TX	3.60	3.34	3.11	2.87	2.64	2.40
DICKENS	TX	2.40	2.34	2.19	2.03	1.88	1.73
DIMMIT	TX	3.45	2.70	2.60	2.49	2.39	2.29
DONLEY	TX	2.40	2.30	2.10	1.91	1.71	1.52
DUVAL	TX	3.65	3.57	3.32	3.08	2.83	2.58
EASTLAND	TX	2.80	2.70	2.45	2.21	1.96	1.71
ECTOR	TX	2.40	2.72	2.49	2.25	2.02	1.79
EDWARDS	TX	2.80	2.49	2.37	2.26	2.14	2.03
EL PASO	TX	3.00	2.89	2.62	2.35	2.08	1.81
ELLIS	TX	2.25	2.15	1.95	1.75	1.55	1.35
ERATH	TX	3.00	2.99	2.68	2.36	2.05	1.73
FALLS	TX	3.15	3.07	2.82	2.58	2.33	2.09
FANNIN	TX	3.00	2.81	2.46	2.12	1.77	1.42
FAYETTE	TX	3.60	3.42	3.14	2.86	2.58	2.30
FISHER	TX	2.60	2.70	2.45	2.21	1.96	1.71
FLOYD	TX	2.40	2.30	2.12	1.93	1.75	1.56
FOARD	TX	2.60	2.67	2.39	2.12	1.84	1.56
FORT BEND	TX	3.60	3.46	3.23	2.99	2.76	2.52
FRANKLIN	TX	3.00	2.83	2.50	2.16	1.83	1.50
FREESTONE	TX	3.15	3.05	2.80	2.54	2.29	2.03
FRIO	TX	3.45	2.70	2.60	2.49	2.39	2.29
GAINES	TX	2.40	2.31	2.13	1.95	1.77	1.59
GALVESTON	TX	3.60	3.48	3.25	3.03	2.80	2.58
GARZA	TX	2.40	2.32	2.16	1.99	1.83	1.66
GILLESPIE	TX	3.30	2.63	2.46	2.30	2.13	1.96
GLASSCOCK	TX	2.60	2.72	2.49	2.27	2.04	1.81
GOLIAD	TX	3.65	3.45	3.21	2.98	2.74	2.50
GONZALES	TX	3.45	3.32	3.06	2.79	2.53	2.27
GRAY	TX	2.40	2.29	2.09	1.90	1.70	1.50
GRAYSON	TX	3.00	2.82	2.47	2.13	1.78	1.44
GREGG	TX	3.00	2.89	2.62	2.34	2.07	1.80
GRIMES	TX	3.30	3.16	2.97	2.77	2.58	2.38
GUADALUPE	TX	3.45	3.29	3.01	2.72	2.44	2.15
HALE	TX	2.40	2.30	2.10	1.91	1.71	1.52
HALL	TX	2.40	2.30	2.11	1.91	1.72	1.53
HAMILTON	TX	3.15	3.01	2.71	2.42	2.12	1.82
HANSFORD	TX	2.40	2.28	2.07	1.87	1.66	1.45
HARDEMAN	TX	2.60	2.63	2.36	2.08	1.81	1.53
HARDIN	TX	3.60	3.44	3.19	2.93	2.68	2.42
HARRIS	TX	3.60	3.46	3.22	2.99	2.75	2.51

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
HARRISON	TX	3.00	2.89	2.63	2.36	2.10	1.83
HARTLEY	TX	2.40	2.29	2.09	1.90	1.70	1.50
HASKELL	TX	2.60	2.68	2.42	2.15	1.89	1.62
HAYS	TX	3.45	3.27	2.95	2.64	2.32	2.01
HEMPHILL	TX	2.40	2.28	2.08	1.87	1.67	1.46
HENDERSON	TX	3.00	3.02	2.73	2.43	2.14	1.85
HIDALGO	TX	3.65	3.66	3.40	3.15	2.89	2.64
HILL	TX	3.15	3.02	2.73	2.45	2.16	1.87
HOCKLEY	TX	2.40	2.29	2.10	1.90	1.71	1.51
HOOD	TX	3.00	2.87	2.58	2.29	2.00	1.71
HOPKINS	TX	3.00	2.81	2.47	2.12	1.78	1.43
HOUSTON	TX	3.15	3.09	2.84	2.58	2.33	2.08
HOWARD	TX	2.40	2.71	2.48	2.24	2.01	1.77
HUDSPETH	TX	2.25	2.18	2.01	1.83	1.66	1.49
HUNT	TX	3.00	2.86	2.56	2.27	1.97	1.67
HUTCHINSON	TX	2.40	2.29	2.09	1.89	1.69	1.49
IRION	TX	2.60	2.29	2.18	2.08	1.97	1.86
JACK	TX	2.80	2.66	2.38	2.09	1.81	1.52
JACKSON	TX	3.60	3.37	3.16	2.95	2.74	2.53
JASPER	TX	3.30	3.14	2.94	2.73	2.53	2.33
JEFF DAVIS	TX	2.40	2.09	1.99	1.88	1.78	1.67
JEFFERSON	TX	3.60	3.46	3.22	2.97	2.73	2.49
JIM HOGG	TX	3.65	2.83	2.76	2.70	2.63	2.56
JIM WELLS	TX	3.65	3.58	3.34	3.09	2.85	2.61
JOHNSON	TX	3.00	2.88	2.60	2.31	2.03	1.75
JONES	TX	2.60	2.69	2.44	2.18	1.93	1.67
KARNES	TX	3.65	3.43	3.17	2.91	2.65	2.39
KAUFMAN	TX	3.00	2.87	2.58	2.29	2.00	1.71
KENDALL	TX	3.30	2.65	2.50	2.35	2.20	2.05
KENEDY	TX	3.65	3.60	3.38	3.16	2.94	2.72
KENT	TX	2.60	2.69	2.43	2.18	1.92	1.66
KERR	TX	3.30	2.64	2.48	2.33	2.17	2.01
KIMBLE	TX	2.80	2.47	2.33	2.20	2.06	1.93
KING	TX	2.60	2.68	2.41	2.14	1.87	1.60
KINNEY	TX	3.30	2.66	2.52	2.37	2.23	2.09
KLEBERG	TX	3.65	3.60	3.38	3.15	2.93	2.71
KNOX	TX	2.60	2.68	2.41	2.13	1.86	1.59
LA SALLE	TX	3.00	2.81	2.46	2.12	1.77	1.42
LAMAR	TX	2.40	2.28	2.07	1.85	1.64	1.43
LAMB	TX	3.15	3.02	2.74	2.45	2.17	1.88
LAMPASAS	TX	3.45	2.71	2.62	2.52	2.43	2.34
LAVACA	TX	3.60	3.34	3.09	2.85	2.60	2.36
LEE	TX	3.30	3.21	2.95	2.70	2.44	2.19
LEON	TX	3.15	3.10	2.86	2.63	2.39	2.15
LIBERTY	TX	3.60	3.45	3.19	2.94	2.68	2.43
LIMESTONE	TX	3.15	3.06	2.81	2.55	2.30	2.05
LIPSCOMB	TX	2.40	2.28	2.07	1.85	1.64	1.43
LIVE OAK	TX	3.65	3.46	3.22	2.99	2.75	2.52
LLANO	TX	3.30	2.62	2.44	2.25	2.07	1.89
LOVING	TX	2.40	2.09	1.98	1.88	1.77	1.66
LUBBOCK	TX	2.40	2.31	2.13	1.96	1.78	1.60
LYNN	TX	2.40	2.32	2.15	1.97	1.80	1.63
MADISON	TX	2.80	2.45	2.29	2.14	1.98	1.83
MARION	TX	3.15	3.05	2.79	2.52	2.26	2.00
MARTIN	TX	3.45	2.72	2.64	2.57	2.49	2.41
MASON	TX	3.30	3.14	2.92	2.69	2.47	2.25
MATAGORDA	TX	3.00	2.88	2.60	2.33	2.05	1.77
MAVERICK	TX	2.40	2.71	2.47	2.24	2.00	1.76
MCCULLOCH	TX	2.80	2.46	2.32	2.18	2.04	1.90
MCLENNAN	TX	3.60	3.38	3.19	2.99	2.80	2.60
MCMULLEN	TX	3.30	2.67	2.55	2.42	2.30	2.17
MEDINA	TX	3.30	2.68	2.56	2.43	2.31	2.19
MENARD	TX	2.80	2.46	2.32	2.17	2.03	1.89
MIDLAND	TX	2.40	2.72	2.49	2.27	2.04	1.81
MILAM	TX	3.30	3.12	2.87	2.63	2.38	2.14
MILLS	TX	2.80	3.01	2.71	2.41	2.11	1.81
MITCHELL	TX	2.60	2.71	2.47	2.23	1.99	1.75
MONTAGUE	TX	2.80	2.62	2.33	2.03	1.74	1.45
MONTGOMERY	TX	3.60	3.45	3.19	2.94	2.68	2.43
MOORE	TX	2.40	2.29	2.09	1.90	1.70	1.50

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
MORRIS	TX	3.00	2.85	2.55	2.24	1.94	1.63
MOTLEY	TX	2.40	2.31	2.12	1.94	1.75	1.57
NACOGDOCHES	TX	3.15	3.07	2.81	2.54	2.28	2.01
NAVARRO	TX	3.15	3.03	2.75	2.47	2.19	1.91
NEWTON	TX	3.30	3.14	2.94	2.75	2.55	2.35
NOLAN	TX	2.60	2.71	2.47	2.22	1.98	1.74
NUECES	TX	3.65	3.59	3.37	3.14	2.92	2.69
OCHILTREE	TX	2.40	2.28	2.07	1.86	1.65	1.44
OLDHAM	TX	2.40	2.29	2.09	1.88	1.68	1.48
ORANGE	TX	3.60	3.46	3.22	2.97	2.73	2.49
PALO PINTO	TX	2.80	2.69	2.43	2.16	1.90	1.64
PANOLA	TX	3.00	2.92	2.68	2.43	2.19	1.95
PARKER	TX	3.00	2.85	2.54	2.23	1.92	1.61
PARMER	TX	2.40	2.26	2.03	1.80	1.57	1.34
PECOS	TX	2.40	2.13	2.05	1.98	1.90	1.83
POLK	TX	3.30	3.13	2.92	2.70	2.49	2.28
POTTER	TX	2.40	2.29	2.10	1.90	1.71	1.51
PRESIDIO	TX	2.40	2.11	2.01	1.92	1.82	1.73
RAINS	TX	3.00	2.84	2.52	2.20	1.88	1.56
RANDALL	TX	2.40	2.29	2.09	1.90	1.70	1.50
REAGAN	TX	2.60	2.29	2.18	2.08	1.97	1.86
REAL	TX	3.30	2.65	2.51	2.36	2.22	2.07
RED RIVER	TX	3.00	2.83	2.49	2.16	1.82	1.49
REEVES	TX	2.40	2.09	1.99	1.88	1.78	1.67
REFUGIO	TX	3.65	3.47	3.26	3.04	2.83	2.61
ROBERTS	TX	2.40	2.29	2.09	1.88	1.68	1.48
ROBERTSON	TX	3.30	3.13	2.90	2.68	2.45	2.22
ROCKWALL	TX	3.00	2.85	2.54	2.24	1.93	1.62
RUNNELS	TX	2.80	2.72	2.49	2.25	2.02	1.79
RUSK	TX	3.00	2.91	2.66	2.40	2.15	1.90
SABINE	TX	3.15	3.12	2.89	2.67	2.44	2.22
SAN AUGUSTINE	TX	3.15	3.11	2.87	2.64	2.40	2.17
SAN JACINTO	TX	3.30	3.43	3.15	2.88	2.60	2.33
SAN PATRICIO	TX	3.65	3.58	3.35	3.11	2.88	2.64
SAN SABA	TX	2.80	2.45	2.30	2.14	1.99	1.84
SCHLEICHER	TX	2.80	2.46	2.32	2.17	2.03	1.89
SCURRY	TX	2.60	2.70	2.45	2.20	1.95	1.70
SHACKELFORD	TX	2.80	2.69	2.44	2.18	1.93	1.67
SHELBY	TX	3.15	3.09	2.83	2.58	2.32	2.07
SHERMAN	TX	2.40	2.29	2.08	1.88	1.67	1.47
SMITH	TX	3.00	2.90	2.64	2.38	2.12	1.86
SOMERVELL	TX	3.00	2.88	2.60	2.33	2.05	1.77
STARR	TX	3.65	2.83	2.76	2.70	2.63	2.56
STEPHENS	TX	2.80	2.69	2.43	2.18	1.92	1.66
STERLING	TX	2.60	2.72	2.49	2.27	2.04	1.81
STONEWALL	TX	2.60	2.69	2.43	2.17	1.91	1.65
SUTTON	TX	2.80	2.47	2.33	2.20	2.06	1.93
SWISHER	TX	2.40	2.29	2.09	1.89	1.69	1.49
TARRANT	TX	3.00	2.86	2.57	2.27	1.98	1.68
TAYLOR	TX	2.60	2.71	2.46	2.22	1.97	1.73
TERRELL	TX	2.60	2.30	2.20	2.11	2.01	1.91
TERRY	TX	2.40	2.31	2.13	1.95	1.77	1.59
THROCKMORTON	TX	2.80	2.68	2.41	2.15	1.88	1.61
TITUS	TX	3.00	2.84	2.52	2.20	1.88	1.56
TOM GREEN	TX	2.80	2.73	2.50	2.28	2.05	1.83
TRAVIS	TX	3.30	3.16	2.85	2.55	2.24	1.94
TRINITY	TX	3.30	3.11	2.88	2.64	2.41	2.18
TYLER	TX	3.30	3.13	2.92	2.72	2.51	2.30
UPSHUR	TX	3.00	2.87	2.58	2.29	2.00	1.71
UPTON	TX	2.40	2.13	2.06	2.00	1.93	1.86
UVALDE	TX	3.30	2.66	2.53	2.39	2.26	2.12
VAL VERDE	TX	2.80	2.48	2.36	2.24	2.12	2.00
VAN ZANDT	TX	3.00	2.88	2.59	2.31	2.02	1.74
VICTORIA	TX	3.65	3.46	3.22	2.99	2.75	2.52
WALKER	TX	3.30	3.15	2.94	2.74	2.53	2.32
WALLER	TX	3.60	3.45	3.19	2.94	2.68	2.43
WARD	TX	2.40	2.11	2.02	1.94	1.85	1.76
WASHINGTON	TX	3.30	3.43	3.16	2.90	2.63	2.36
WEBB	TX	3.45	2.73	2.65	2.58	2.50	2.43
WHARTON	TX	3.60	3.37	3.15	2.94	2.72	2.51

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
WHEELER	TX	2.40	2.29	2.09	1.89	1.69	1.49
WICHITA	TX	2.80	2.63	2.35	2.06	1.78	1.50
WILBARGER	TX	2.60	2.63	2.35	2.08	1.80	1.52
WILLACY	TX	3.65	3.67	3.42	3.18	2.93	2.69
WILLIAMSON	TX	3.30	3.16	2.87	2.57	2.28	1.98
WILSON	TX	3.45	3.32	3.06	2.81	2.55	2.29
WINKLER	TX	2.40	2.10	2.01	1.91	1.82	1.72
WISE	TX	3.00	2.83	2.50	2.16	1.83	1.50
WOOD	TX	3.00	2.85	2.54	2.24	1.93	1.62
YOAKUM	TX	2.40	2.30	2.10	1.91	1.71	1.52
YOUNG	TX	2.80	2.67	2.39	2.12	1.84	1.56
ZAPATA	TX	3.65	2.82	2.75	2.67	2.60	2.52
ZAVALA	TX	3.30	2.68	2.56	2.45	2.33	2.21
BEAVER	UT	1.60	1.58	1.56	1.54	1.52	1.50
BOX ELDER	UT	1.90	1.73	1.55	1.38	1.20	1.03
CACHE	UT	1.90	1.73	1.56	1.38	1.21	1.04
CARBON	UT	1.90	1.78	1.66	1.53	1.41	1.29
DAGGETT	UT	1.90	1.77	1.64	1.50	1.37	1.24
DAVIS	UT	1.90	1.74	1.58	1.41	1.25	1.09
DUCHESNE	UT	1.90	1.76	1.62	1.49	1.35	1.21
EMERY	UT	1.90	1.80	1.70	1.59	1.49	1.39
GARFIELD	UT	1.60	1.60	1.60	1.60	1.60	1.60
GRAND	UT	1.90	1.84	1.79	1.73	1.68	1.62
IRON	UT	1.60	1.60	1.61	1.61	1.62	1.62
JUAB	UT	1.90	1.75	1.60	1.46	1.31	1.16
KANE	UT	1.60	1.62	1.63	1.65	1.66	1.68
MILLARD	UT	1.90	1.78	1.67	1.55	1.44	1.32
MORGAN	UT	1.90	1.74	1.57	1.41	1.24	1.08
PIUTE	UT	1.60	1.58	1.56	1.54	1.52	1.50
RICH	UT	1.90	1.73	1.56	1.39	1.22	1.05
SALT LAKE	UT	1.90	1.74	1.57	1.41	1.24	1.08
SAN JUAN	UT	1.60	1.63	1.66	1.68	1.71	1.74
SANPETE	UT	1.90	1.77	1.64	1.52	1.39	1.26
SEVIER	UT	1.90	1.81	1.72	1.62	1.53	1.44
SUMMIT	UT	1.90	1.74	1.58	1.41	1.25	1.09
TOOELE	UT	1.90	1.74	1.57	1.41	1.24	1.08
UINTAH	UT	1.90	1.79	1.68	1.57	1.46	1.35
UTAH	UT	1.90	1.73	1.55	1.38	1.20	1.03
WASATCH	UT	1.90	1.73	1.56	1.39	1.22	1.05
WASHINGTON	UT	1.60	1.63	1.65	1.68	1.70	1.73
WAYNE	UT	1.60	1.59	1.57	1.56	1.54	1.53
WEBER	UT	1.90	1.73	1.57	1.40	1.24	1.07
ACCOMACK	VA	3.00	2.98	2.73	2.49	2.24	1.99
ALBEMARLE	VA	2.80	2.66	2.38	2.11	1.83	1.56
ALEXANDRIA CITY	VA	3.00	2.75	2.46	2.18	1.89	1.61
ALLEGHANY	VA	2.80	2.67	2.41	2.14	1.88	1.62
AMELIA	VA	3.10	2.82	2.56	2.30	2.04	1.78
AMHERST	VA	2.80	2.68	2.43	2.18	1.93	1.68
APPOMATTOX	VA	2.80	2.69	2.45	2.20	1.96	1.72
ARLINGTON	VA	3.00	2.74	2.45	2.17	1.88	1.59
AUGUSTA	VA	2.80	2.66	2.39	2.12	1.85	1.58
BATH	VA	2.80	2.67	2.41	2.14	1.88	1.62
BEDFORD	VA	2.80	2.68	2.43	2.17	1.92	1.67
BEDFORD CITY	VA	2.80	2.68	2.43	2.17	1.92	1.67
BLAND	VA	2.80	2.68	2.43	2.19	1.94	1.69
BOTETOURT	VA	2.80	2.67	2.41	2.14	1.88	1.62
BRISTOL CITY	VA	2.80	2.56	2.35	2.15	1.94	1.73
BRUNSWICK	VA	3.10	2.86	2.64	2.42	2.20	1.98
BUCHANAN	VA	2.80	2.56	2.35	2.13	1.92	1.71
BUCKINGHAM	VA	2.80	2.80	2.52	2.24	1.96	1.68
BUENA VISTA CITY	VA	2.80	2.67	2.41	2.16	1.90	1.64
CAMPBELL	VA	2.80	2.69	2.45	2.20	1.96	1.72
CAROLINE	VA	3.10	2.80	2.53	2.25	1.98	1.70
CARROLL	VA	2.80	2.69	2.45	2.20	1.96	1.72
CHARLES CITY	VA	3.10	2.84	2.60	2.37	2.13	1.89
CHARLOTTE	VA	3.10	2.83	2.57	2.32	2.06	1.81
CHARLOTTESVILLE CITY	VA	2.80	2.66	2.38	2.11	1.83	1.56
CHESAPEAKE CITY	VA	3.20	3.02	2.80	2.59	2.37	2.16
CHESTERFIELD	VA	3.10	2.83	2.58	2.33	2.08	1.83
CLARKE	VA	2.80	2.77	2.46	2.15	1.84	1.53

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
CLIFTON FORGE CITY	VA	2.80	2.67	2.41	2.15	1.89	1.63
COLONIAL HEIGHTS CITY	VA	3.10	2.84	2.60	2.35	2.11	1.87
COVINGTON CITY	VA	2.80	2.67	2.41	2.14	1.88	1.62
CRAIG	VA	2.80	2.67	2.41	2.15	1.89	1.63
CULPEPER	VA	2.80	2.78	2.48	2.17	1.87	1.57
CUMBERLAND	VA	2.80	2.80	2.53	2.25	1.98	1.70
DANVILLE CITY	VA	2.80	2.71	2.49	2.26	2.04	1.82
DICKENSON	VA	2.80	2.56	2.35	2.13	1.92	1.71
DINWIDDIE	VA	3.10	2.84	2.61	2.37	2.14	1.90
EMPORIA CITY	VA	3.00	2.87	2.66	2.45	2.24	2.08
ESSEX	VA	3.10	2.94	2.65	2.36	2.07	1.78
FAIRFAX	VA	3.00	2.74	2.45	2.17	1.88	1.59
FAIRFAX CITY	VA	3.00	2.74	2.45	2.16	1.87	1.58
FALLS CHURCH CITY	VA	3.00	2.74	2.45	2.16	1.87	1.58
FAUQUIER	VA	3.00	2.78	2.47	2.17	1.86	1.56
FLOYD	VA	2.80	2.68	2.43	2.19	1.94	1.69
FLUVANNA	VA	2.80	2.79	2.50	2.21	1.92	1.63
FRANKLIN	VA	2.80	2.68	2.43	2.19	1.94	1.69
FRANKLIN CITY	VA	3.00	2.74	2.45	2.16	1.87	1.58
FREDERICK	VA	3.00	2.74	2.45	2.16	1.87	1.58
FREDERICKSBURG CITY	VA	2.80	2.79	2.50	2.22	1.93	1.64
GALAX CITY	VA	2.80	2.69	2.45	2.21	1.97	1.73
GILES	VA	2.80	2.68	2.43	2.17	1.92	1.67
GLOUCESTER	VA	3.20	2.98	2.73	2.48	2.23	1.98
GOOCHLAND	VA	3.10	2.80	2.52	2.25	1.97	1.69
GRAYSON	VA	2.80	2.69	2.45	2.21	1.97	1.73
GREENE	VA	2.80	2.65	2.38	2.10	1.83	1.55
GREENSVILLE	VA	3.10	2.87	2.65	2.44	2.22	2.01
HALIFAX	VA	3.10	2.71	2.49	2.28	2.06	1.84
HAMPTON CITY	VA	3.20	3.00	2.77	2.54	2.31	2.08
HANOVER	VA	3.10	2.82	2.55	2.29	2.02	1.76
HARRISONBURG CITY	VA	2.80	2.65	2.38	2.10	1.83	1.55
HENRICO	VA	3.10	2.82	2.56	2.30	2.04	1.78
HENRY	VA	2.80	2.82	2.55	2.29	2.02	1.76
HIGHLAND	VA	2.80	2.67	2.40	2.14	1.87	1.61
HOPEWELL CITY	VA	3.10	2.84	2.60	2.37	2.13	1.89
ISLE OF WIGHT	VA	3.20	3.00	2.76	2.53	2.29	2.06
JAMES CITY	VA	3.10	2.98	2.72	2.47	2.21	1.96
KING AND QUEEN	VA	3.10	2.95	2.67	2.39	2.11	1.83
KING GEORGE	VA	3.10	2.80	2.53	2.25	1.98	1.70
KING WILLIAM	VA	3.10	2.82	2.56	2.31	2.05	1.79
LANCASTER	VA	3.10	2.96	2.69	2.42	2.15	1.88
LEE	VA	2.80	2.56	2.36	2.15	1.95	1.74
LEXINGTON CITY	VA	2.80	2.67	2.41	2.15	1.89	1.63
LOUDOUN	VA	3.00	2.71	2.41	2.12	1.82	1.53
LOUISA	VA	2.80	2.79	2.50	2.21	1.92	1.63
LUNENBURG	VA	3.10	2.84	2.59	2.35	2.10	1.86
LYNCHBURG CITY	VA	2.80	2.69	2.45	2.20	1.96	1.72
MADISON	VA	2.80	2.77	2.47	2.16	1.86	1.55
MANASSAS CITY	VA	3.00	2.72	2.43	2.15	1.86	1.58
MANASSAS PARK CITY	VA	3.00	2.78	2.48	2.18	1.88	1.58
MARTINSVILLE CITY	VA	2.80	2.70	2.46	2.23	1.99	1.76
MATHEWS	VA	3.20	2.98	2.73	2.48	2.23	1.98
MECKLENBURG	VA	3.10	2.85	2.62	2.38	2.15	1.92
MIDDLESEX	VA	3.10	2.96	2.70	2.43	2.17	1.90
MONTGOMERY	VA	2.80	2.68	2.42	2.17	1.91	1.66
NELSON	VA	2.80	2.67	2.41	2.14	1.88	1.62
NEW KENT	VA	3.10	2.83	2.59	2.34	2.10	1.85
NEWPORT NEWS CITY	VA	3.20	2.99	2.75	2.52	2.28	2.04
NORFOLK CITY	VA	3.20	3.01	2.79	2.56	2.34	2.12
NORTHAMPTON	VA	3.00	2.99	2.75	2.52	2.28	2.04
NORTHUMBERLAND	VA	3.10	2.80	2.57	2.33	2.10	1.87
NORTON CITY	VA	2.80	2.56	2.35	2.15	1.94	1.73
NOTTOWAY	VA	3.10	2.83	2.59	2.34	2.10	1.85
ORANGE	VA	2.80	2.78	2.48	2.18	1.88	1.58
PAGE	VA	2.80	2.77	2.47	2.16	1.86	1.55
PATRICK	VA	2.80	2.69	2.46	2.22	1.99	1.75
PETERSBURG CITY	VA	3.10	2.84	2.61	2.37	2.14	1.90
PITTSYLVANIA	VA	2.80	2.70	2.47	2.24	2.01	3.00
POQUOSON CITY	VA	3.20	2.99	2.75	2.52	2.28	2.04

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
PORTSMOUTH CITY	VA	3.20	3.01	2.79	2.56	2.34	2.12
POWHATAN	VA	3.10	2.81	2.54	2.27	2.00	3.10
PRINCE EDWARD	VA	3.10	2.82	2.55	2.29	2.02	1.76
PRINCE GEORGE	VA	3.10	2.85	2.61	2.38	2.14	1.91
PRINCE WILLIAM	VA	3.00	2.72	2.44	2.15	1.87	1.59
PULASKI	VA	2.80	2.68	2.43	2.18	1.93	1.68
RADFORD CITY	VA	2.80	2.68	2.43	2.17	1.92	1.67
RAPPAHANNOCK	VA	2.80	2.77	2.47	2.16	1.86	1.55
RICHMOND	VA	3.10	2.95	2.66	2.38	2.09	1.81
RICHMOND CITY	VA	3.10	2.82	2.56	2.30	2.04	1.78
ROANOKE	VA	2.80	2.67	2.41	2.14	1.88	1.62
ROANOKE CITY	VA	2.80	2.67	2.41	2.15	1.89	1.63
ROCKBRIDGE	VA	2.80	2.67	2.41	2.15	1.89	1.63
ROCKINGHAM	VA	2.80	2.65	2.38	2.10	1.83	1.55
RUSSELL	VA	2.80	2.56	2.35	2.13	1.92	1.71
SALEM CITY	VA	2.80	2.79	2.50	2.20	1.91	1.62
SCOTT	VA	2.80	2.57	2.37	2.16	1.96	1.76
SHENANDOAH	VA	2.80	2.77	2.47	2.16	1.86	1.55
SMYTH	VA	2.80	2.69	2.44	2.20	1.95	1.71
SOUTH BOSTON CITY	VA	3.10	2.70	2.48	2.25	2.03	1.80
SOUTHAMPTON	VA	3.10	2.88	2.67	2.47	2.26	2.06
SPOTSYLVANIA	VA	2.80	2.79	2.50	2.21	1.92	1.63
STAFFORD	VA	3.00	2.79	2.50	2.21	1.92	1.63
STAUNTON CITY	VA	2.80	2.66	2.39	2.11	1.84	1.57
SUFFOLK CITY	VA	3.20	3.01	2.79	2.56	2.34	2.12
SURRY	VA	3.10	2.86	2.64	2.42	2.20	1.98
SUSSEX	VA	3.10	2.87	2.65	2.44	2.22	2.01
TAZEWELL	VA	2.80	2.56	2.34	2.13	1.91	1.70
VIRGINIA BEACH CITY	VA	3.20	3.01	2.80	2.58	2.37	2.15
WARREN	VA	2.80	2.77	2.46	2.16	1.85	1.54
WASHINGTON	VA	2.80	2.56	2.35	2.14	1.93	1.72
WAYNESBORO CITY	VA	2.80	2.66	2.39	2.11	1.84	1.57
WESTMORELAND	VA	3.10	2.82	2.56	2.29	2.03	1.77
WILLIAMSBURG CITY	VA	3.10	2.86	2.63	2.41	2.18	1.96
WINCHESTER CITY	VA	2.80	2.77	2.46	2.15	1.84	1.53
WISE	VA	2.80	2.56	2.35	2.15	1.94	1.73
WYTHE	VA	2.80	2.68	2.44	2.19	1.95	1.70
YORK	VA	3.20	2.98	2.74	2.49	2.25	2.00
ADDISON	VT	2.60	2.38	2.19	1.99	1.80	1.61
BENNINGTON	VT	2.80	2.52	2.32	2.13	1.93	1.73
CALEDONIA	VT	2.60	2.41	2.22	2.03	1.84	1.65
CHITTENDEN	VT	2.60	2.34	2.16	1.97	1.79	1.61
ESSEX	VT	2.60	2.36	2.18	1.99	1.81	1.62
FRANKLIN	VT	2.40	2.24	2.07	1.91	1.74	1.58
GRAND ISLE	VT	2.40	2.21	2.05	1.90	1.74	1.58
LAMOILLE	VT	2.60	2.34	2.16	1.97	1.79	1.61
ORANGE	VT	2.60	2.42	2.24	2.06	1.88	1.70
ORLEANS	VT	2.40	2.32	2.14	1.95	1.77	1.59
RUTLAND	VT	2.60	2.44	2.24	2.03	1.83	1.62
WASHINGTON	VT	2.60	2.37	2.19	2.01	1.83	1.65
WINDHAM	VT	2.80	2.76	2.53	2.30	2.07	1.84
WINDSOR	VT	2.60	2.69	2.45	2.20	1.96	1.71
ADAMS	WA	1.75	1.58	1.41	1.25	1.08	0.91
ASOTIN	WA	1.75	1.60	1.45	1.29	1.14	0.99
BENTON	WA	1.75	1.59	1.43	1.27	1.11	0.95
CHELAN	WA	1.75	1.58	1.41	1.23	1.06	0.89
CLALLAM	WA	1.90	1.58	1.41	1.24	1.07	0.90
CLARK	WA	1.90	1.71	1.52	1.33	1.14	0.95
COLUMBIA	WA	1.75	1.59	1.43	1.27	1.11	0.95
COWLITZ	WA	1.90	1.71	1.53	1.34	1.16	0.97
DOUGLAS	WA	1.75	1.58	1.40	1.23	1.05	0.88
FERRY	WA	1.90	1.70	1.49	1.29	1.08	0.88
FRANKLIN	WA	1.75	1.59	1.43	1.26	1.10	0.94
GARFIELD	WA	1.75	1.59	1.43	1.28	1.12	0.96
GRANT	WA	1.75	1.58	1.41	1.24	1.07	0.90
GRAYS HARBOR	WA	1.90	1.72	1.53	1.35	1.16	0.98
ISLAND	WA	1.90	1.70	1.50	1.29	1.09	0.89
JEFFERSON	WA	1.90	1.59	1.43	1.27	1.11	0.95
KING	WA	1.90	1.72	1.54	1.36	1.18	1.00
KITSAP	WA	1.90	1.72	1.54	1.36	1.18	1.00

COUNTY/PARISH	STATE	OPTION 1A DIFFERENTIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
KITTITAS	WA	1.75	1.59	1.43	1.26	1.10	0.94
KLICKITAT	WA	1.75	1.59	1.43	1.28	1.12	0.96
LEWIS	WA	1.90	1.72	1.53	1.35	1.16	0.98
LINCOLN	WA	1.90	1.70	1.49	1.29	1.08	0.88
MASON	WA	1.90	1.72	1.54	1.35	1.17	0.99
OKANOGAN	WA	1.75	1.57	1.39	1.22	1.04	0.86
PACIFIC	WA	1.90	1.72	1.54	1.35	1.17	0.99
PEND OREILLE	WA	1.90	1.71	1.51	1.32	1.12	0.93
PIERCE	WA	1.90	1.72	1.54	1.36	1.18	1.00
SAN JUAN	WA	1.90	1.57	1.38	1.20	1.01	0.83
SKAGIT	WA	1.90	1.68	1.46	1.24	1.02	0.80
SKAMANIA	WA	1.90	1.71	1.52	1.34	1.15	0.96
SNOHOMISH	WA	1.90	1.70	1.50	1.31	1.11	0.91
SPOKANE	WA	1.90	1.70	1.50	1.29	1.09	0.89
STEVENS	WA	1.90	1.70	1.50	1.29	1.09	0.89
THURSTON	WA	1.90	1.72	1.54	1.35	1.17	0.99
WAHKIAKUM	WA	1.90	1.72	1.54	1.35	1.17	0.99
WALLA WALLA	WA	1.75	1.59	1.43	1.27	1.11	0.95
WHATCOM	WA	1.90	1.63	1.42	1.21	1.00	0.79
WHITMAN	WA	1.90	1.71	1.52	1.32	1.13	0.94
YAKIMA	WA	1.75	1.59	1.43	1.27	1.11	0.95
ADAMS	WI	1.70	1.11	1.11	1.12	1.12	1.13
ASHLAND	WI	1.70	1.10	1.10	1.10	1.10	1.10
BARRON	WI	1.70	1.11	1.11	1.12	1.12	1.13
BAYFIELD	WI	1.70	1.11	1.12	1.14	1.15	1.16
BROWN	WI	1.75	1.14	1.16	1.19	1.21	1.23
BUFFALO	WI	1.70	1.10	1.11	1.11	1.12	1.12
BURNETT	WI	1.70	1.14	1.15	1.15	1.16	1.16
CALUMET	WI	1.75	1.17	1.20	1.24	1.27	1.30
CHIPPEWA	WI	1.70	1.10	1.10	1.11	1.11	1.11
CLARK	WI	1.70	1.05	1.06	1.08	1.09	1.10
COLUMBIA	WI	1.75	1.15	1.15	1.16	1.16	1.17
CRAWFORD	WI	1.75	1.14	1.14	1.14	1.14	1.14
DANE	WI	1.75	1.20	1.19	1.19	1.18	1.17
DODGE	WI	1.75	1.17	1.21	1.24	1.28	1.31
DOOR	WI	1.75	1.10	1.11	1.11	1.12	1.12
DOUGLAS	WI	1.70	1.16	1.18	1.19	1.21	1.23
DUNN	WI	1.70	1.10	1.10	1.10	1.10	1.10
EAU CLAIRE	WI	1.70	1.10	1.11	1.11	1.12	1.12
FLORENCE	WI	1.70	1.09	1.03	0.98	0.92	0.86
FOND DU LAC	WI	1.75	1.17	1.20	1.24	1.27	1.30
FOREST	WI	1.70	1.07	1.03	1.00	0.96	0.93
GRANT	WI	1.75	1.15	1.15	1.16	1.16	1.17
GREEN	WI	1.75	1.21	1.22	1.22	1.23	1.23
GREEN LAKE	WI	1.70	1.15	1.16	1.18	1.19	1.20
IOWA	WI	1.75	1.14	1.14	1.15	1.15	1.15
IRON	WI	1.70	1.13	1.11	1.09	1.07	1.05
JACKSON	WI	1.70	1.06	1.08	1.10	1.12	1.14
JEFFERSON	WI	1.75	1.31	1.30	1.30	1.29	1.29
JUNEAU	WI	1.70	1.11	1.11	1.12	1.12	1.13
KENOSHA	WI	1.75	1.34	1.38	1.41	1.45	1.48
KEWAUNEE	WI	1.75	1.13	1.16	1.20	1.23	1.26
LA CROSSE	WI	1.70	1.12	1.14	1.15	1.17	1.19
LAFAYETTE	WI	1.75	1.15	1.17	1.18	1.20	1.21
LANGLADE	WI	1.70	1.03	1.02	1.00	0.99	0.98
LINCOLN	WI	1.70	1.03	1.03	1.02	1.02	1.01
MANITOWOC	WI	1.75	1.19	1.24	1.29	1.34	1.39
MARATHON	WI	1.70	1.04	1.05	1.05	1.06	1.06
MARINETTE	WI	1.70	1.04	1.02	1.01	0.99	0.98
MARQUETTE	WI	1.70	1.11	1.12	1.13	1.14	1.15
MENOMINEE	WI	1.70	1.04	1.03	1.03	1.02	1.02
MILWAUKEE	WI	1.75	1.34	1.37	1.41	1.44	1.47
MONROE	WI	1.70	1.11	1.12	1.13	1.14	1.15
OCONTO	WI	1.70	1.04	1.05	1.05	1.06	1.06
ONEIDA	WI	1.70	1.03	1.02	1.00	0.99	0.98
OUTAGAMIE	WI	1.75	1.10	1.11	1.11	1.12	1.12
OZAUKEE	WI	1.75	1.21	1.28	1.35	1.42	1.49
PEPIN	WI	1.70	1.10	1.10	1.10	1.10	1.10
PIERCE	WI	1.70	1.13	1.12	1.12	1.11	1.10
POLK	WI	1.70	1.14	1.14	1.14	1.14	1.14

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
PORTAGE	WI	1.70	1.05	1.06	1.06	1.07	1.08
PRICE	WI	1.70	1.05	1.05	1.06	1.06	1.07
RACINE	WI	1.75	1.34	1.37	1.39	1.42	1.45
RICHLAND	WI	1.75	1.14	1.14	1.14	1.14	1.14
ROCK	WI	1.75	1.30	1.29	1.29	1.28	1.27
RUSK	WI	1.70	1.10	1.10	1.11	1.11	1.11
SAUK	WI	1.75	1.14	1.14	1.13	1.13	1.13
SAWYER	WI	1.70	1.11	1.11	1.12	1.12	1.13
SHAWANO	WI	1.70	1.04	1.04	1.05	1.05	1.05
SHEBOYGAN	WI	1.75	1.21	1.29	1.36	1.44	1.51
ST. CROIX	WI	1.70	1.13	1.13	1.12	1.12	1.11
TAYLOR	WI	1.70	1.05	1.06	1.06	1.07	1.08
TREMPEALEAU	WI	1.70	1.11	1.12	1.13	1.14	1.15
VERNON	WI	1.75	1.14	1.15	1.15	1.16	1.16
VILAS	WI	1.70	1.08	1.05	1.03	1.00	0.98
WALWORTH	WI	1.75	1.32	1.33	1.35	1.36	1.37
WASHBURN	WI	1.70	1.11	1.12	1.14	1.15	1.16
WASHINGTON	WI	1.75	1.19	1.25	1.30	1.36	1.41
WAUKESHA	WI	1.75	1.33	1.34	1.36	1.37	1.39
WAUPACA	WI	1.75	1.10	1.09	1.09	1.08	1.08
WAUSHARA	WI	1.70	1.10	1.11	1.11	1.12	1.12
WINNEBAGO	WI	1.75	1.15	1.16	1.16	1.17	1.18
WOOD	WI	1.70	1.05	1.06	1.08	1.09	1.10
BARBOUR	WV	2.30	1.93	1.86	1.79	1.72	1.65
BERKELEY	WV	2.60	1.85	1.76	1.66	1.57	1.47
BOONE	WV	2.20	2.10	2.01	1.93	1.84	1.75
BRAXTON	WV	2.20	1.94	1.87	1.81	1.74	1.68
BROOKE	WV	2.10	1.92	1.85	1.77	1.70	1.62
CABELL	WV	2.20	2.09	1.99	1.90	1.80	1.70
CALHOUN	WV	2.20	2.02	1.94	1.85	1.77	1.68
CLAY	WV	2.20	2.09	2.00	1.90	1.81	1.71
DODDRIDGE	WV	2.10	1.93	1.86	1.78	1.71	1.64
FAYETTE	WV	2.20	2.09	2.00	1.90	1.81	1.71
GILMER	WV	2.20	2.02	1.93	1.85	1.76	1.67
GRANT	WV	2.60	1.92	1.84	1.76	1.68	1.60
GREENBRIER	WV	2.20	2.55	2.33	2.10	1.88	1.66
HAMPSHIRE	WV	2.60	1.91	1.83	1.74	1.66	1.57
HANCOCK	WV	2.10	1.92	1.84	1.75	1.67	1.59
HARDY	WV	2.60	1.92	1.83	1.75	1.66	1.58
HARRISON	WV	2.10	1.93	1.86	1.79	1.72	1.65
JACKSON	WV	2.20	2.09	1.99	1.88	1.78	1.68
JEFFERSON	WV	2.60	1.90	1.80	1.70	1.60	1.50
KANAWHA	WV	2.20	2.10	2.02	1.93	1.85	1.76
LEWIS	WV	2.10	1.93	1.86	1.80	1.73	1.66
LINCOLN	WV	2.20	2.10	2.01	1.91	1.82	1.73
LOGAN	WV	2.20	2.10	2.00	1.91	1.81	1.72
MARION	WV	2.80	2.56	2.35	2.13	1.92	1.71
MARSHALL	WV	2.10	1.93	1.86	1.78	1.71	1.64
MASON	WV	2.10	1.92	1.85	1.77	1.70	1.62
MCDOWELL	WV	2.20	2.09	1.98	1.88	1.77	1.67
MERCER	WV	2.80	2.55	2.34	2.12	1.91	1.69
MINERAL	WV	2.60	1.92	1.84	1.76	1.68	1.60
MINGO	WV	2.20	2.09	2.00	1.90	1.81	1.71
MONONGALIA	WV	2.10	1.93	1.85	1.78	1.70	1.63
MONROE	WV	2.20	2.55	2.32	2.10	1.87	1.65
MORGAN	WV	2.60	1.82	1.74	1.66	1.58	1.50
NICHOLAS	WV	2.20	2.09	1.99	1.89	1.79	1.69
OHIO	WV	2.10	1.92	1.84	1.77	1.69	1.61
PENDLETON	WV	2.60	1.92	1.84	1.76	1.68	1.60
PLEASANTS	WV	2.20	2.01	1.91	1.80	1.70	1.60
POCAHONTAS	WV	2.20	2.54	2.32	2.09	1.87	1.64
PRESTON	WV	2.30	1.93	1.86	1.78	1.71	1.64
PUTNAM	WV	2.20	2.10	2.01	1.91	1.82	1.73
RALEIGH	WV	2.20	2.09	2.00	1.90	1.81	1.71
RANDOLPH	WV	2.30	1.93	1.85	1.78	1.70	1.63
RITCHIE	WV	2.20	2.01	1.92	1.82	1.73	1.63
ROANE	WV	2.20	2.09	1.99	1.89	1.79	1.69
SUMMERS	WV	2.20	2.55	2.33	2.11	1.89	1.67
TAYLOR	WV	2.30	1.93	1.86	1.79	1.72	1.65
TUCKER	WV	2.30	1.92	1.85	1.77	1.70	1.62

COUNTY/PARISH	STATE	OPTION 1A DIFFEREN-TIAL	OPTION 1B DIFFERENTIAL (Per Year)				
			1999	2000	2001	2002	2003 & beyond
TYLER	WV	2.10	1.93	1.85	1.78	1.70	1.63
UPSHUR	WV	2.30	1.93	1.86	1.79	1.72	1.65
WAYNE	WV	2.20	2.09	1.99	1.89	1.79	1.69
WEBSTER	WV	2.20	1.93	1.86	1.80	1.73	1.66
WETZEL	WV	2.10	1.93	1.85	1.78	1.70	1.63
WIRT	WV	2.20	2.02	1.93	1.84	1.75	1.66
WOOD	WV	2.20	2.01	1.91	1.82	1.72	1.62
WYOMING	WV	2.20	2.10	2.00	1.91	1.81	1.72
ALBANY	WY	1.90	1.86	1.68	1.49	1.31	1.12
BIG HORN	WY	1.60	1.65	1.49	1.34	1.18	1.03
CAMPBELL	WY	1.65	1.84	1.63	1.41	1.20	0.99
CARBON	WY	1.90	1.67	1.53	1.40	1.26	1.13
CONVERSE	WY	1.70	1.84	1.63	1.43	1.22	1.01
CROOK	WY	1.65	1.83	1.61	1.38	1.16	0.94
FREMONT	WY	1.60	1.49	1.37	1.26	1.14	1.03
GOSHEN	WY	1.90	1.85	1.64	1.44	1.23	1.03
HOT SPRINGS	WY	1.60	1.48	1.36	1.25	1.13	1.01
JOHNSON	WY	1.65	1.64	1.48	1.33	1.17	1.01
LARAMIE	WY	2.45	1.86	1.67	1.48	1.29	1.10
LINCOLN	WY	1.60	1.49	1.37	1.26	1.14	1.03
NATRONA	WY	1.70	1.65	1.49	1.34	1.18	1.03
NIOBRARA	WY	1.70	1.84	1.62	1.41	1.19	0.98
PARK	WY	1.60	1.47	1.34	1.21	1.08	0.95
PLATTE	WY	1.90	1.85	1.65	1.46	1.26	1.06
SHERIDAN	WY	1.60	1.65	1.50	1.35	1.20	1.05
SUBLETTE	WY	1.60	1.48	1.37	1.25	1.14	1.02
SWEETWATER	WY	1.90	1.51	1.42	1.33	1.24	1.15
TETON	WY	1.60	1.46	1.33	1.19	1.06	0.92
UINTA	WY	1.90	1.50	1.40	1.31	1.21	1.11
WASHAKIE	WY	1.60	1.64	1.49	1.33	1.18	1.02
WESTON	WY	1.70	1.82	1.59	1.36	1.13	0.90

§ 1000.53 Announcement of class prices and component prices.

On or before the 5th day of the month, the market administrator shall announce for each Federal milk marketing order in 7 CFR, chapter X the following applicable prices:

(a) For the following month:

(1) The Class I price;

(2) The Class I skim milk price;

(3) The Class I butterfat price;

(b) For the preceding month:

(1) The Class II price;

(2) The Class III price;

(3) The Class IV price;

(4) The Class II skim milk price;

(5) The Class III skim milk price;

(6) The Class IV skim milk price;

(7) The butterfat price;

(8) The nonfat solids price;

(9) The protein price;

(10) The other solids price; and

(11) The somatic cell adjustment rate.

§ 1000.54 Equivalent price.

If for any reason a price or pricing constituent required for computing class prices or for other purposes is not available as prescribed in any Federal milk order, the market administrator shall use a price or pricing constituent determined by the Deputy Administrator, Dairy Programs, Agricultural Marketing Service, to be equivalent to the price or pricing constituent that is required.

Subpart H—Payments for Milk

§ 1000.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which the market administrator shall deposit all payments made by handlers pursuant to §§ ____.71, ____.76, and ____.77 of each Federal milk order in 7 CFR, chapter X, and out of which the market administrator shall make all payments pursuant to §§ ____.72 and ____.77 of each Federal milk order in 7 CFR, chapter X. Payments due any handler shall be offset by any payments due from that handler.

§ 1000.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the date specified in § ____.71 of each order in 7 CFR, chapter X. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) or (c) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § ____.60 of the order; and

(b) For orders in 7 CFR, chapter X with component pricing, the sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential, adjusted pursuant to § ____.75 of the order;

(2) An amount obtained by multiplying the pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices, respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § ____.60(i) of the order by the producer price differential as adjusted pursuant to § ____.75 of the order for the location of the plant from which received; or

(c) For orders in 7 CFR, chapter X with skim milk and butterfat pricing, the sum of the value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the

handler's receipts of producer milk; and the value at the uniform price as adjusted pursuant to § ____.75 of the order applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § ____.60(e) of the order.

§ 1000.72 Payments from the producer-settlement fund.

No later than one day after the date of payment receipt required under § 1000.71, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1000.71(b) or (c), as the case may be, exceeds the amount computed pursuant to § 1000.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1000.76 Payments by a handler operating a partially regulated distributing plant.

On or before the 25th day after the end of the month, the operator of a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section or, if the handler submits the information specified in §§ ____.30(b) and ____.31(b) of the order, the handler may elect to pay the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be an amount resulting from the following computations:

(1) From the plant's route disposition in the marketing area:

(i) Subtract receipts of fluid milk products classified as Class I milk from pool plants and plants fully regulated under other Federal orders in 7 CFR, chapter X, except that subtracted under a similar provision of another Federal milk order in 7 CFR, chapter X;

(ii) Subtract receipts of fluid milk products from another nonpool plant that is not a plant fully regulated under another Federal order in 7 CFR, chapter X to the extent that an equivalent amount of fluid milk products disposed of to the nonpool plant by handlers fully regulated under any Federal order in 7 CFR, chapter X is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order; and

(iii) Subtract the pounds of reconstituted milk made from nonfluid milk products which are then disposed of as route disposition in the marketing area;

(2) For orders in 7 CFR, chapter X with multiple component pricing, multiply the remaining pounds by the amount by which the Class I differential price exceeds the producer price differential, both prices to be applicable at the location of the partially regulated distributing plant except that neither the adjusted Class I differential price nor the adjusted producer price differential shall be less than zero;

(3) For orders in 7 CFR, chapter X with skim milk and butterfat pricing, multiply the remaining pounds by the amount by which the Class I price exceeds the uniform price, both prices to be applicable at the location of the partially regulated distributing plant except that neither the adjusted Class I price nor the adjusted uniform price differential shall be less than the lowest announced class price; and

(4) Add the amount obtained from multiplying the pounds of labeled reconstituted milk included in paragraph (a)(1)(iii) of this section by any positive difference between the Class I price applicable at the location of the partially regulated distributing plant less $1.00 and the Class IV price. For any reconstituted milk that is not so labeled, the Class I price shall not be reduced by $1.00. Alternatively, for such disposition, payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the positive difference between the Class I price applicable under the other Federal order in 7 CFR, chapter X at the location of the plant where the nonfluid milk ingredients were processed and the Class IV price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders in 7 CFR, chapter X and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § ____.60 of the order for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the plant from a pool plant or a plant fully regulated under another Federal order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or a plant fully regulated under another Federal order in 7 CFR, chapter X shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be computed to the extent possible to those receipts at the partially regulated distributing plant from the pool plant and plants fully regulated under other Federal orders in 7 CFR, chapter X that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are in Class I and for which a value is computed pursuant to § ____.60 of the order for the partially regulated distributing plant shall be priced at the statistical uniform price or uniform price, whichever is applicable, of the respective order regulating the handling of milk at the receiving plant, with such statistical uniform price or uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest announced class price of the respective order); and

(iii) If the operator of the partially regulated distributing plant so requests, the handler's value of milk determined pursuant to § ____.60 of the order shall include a value of milk determined for each nonpool plant that is not a plant fully regulated under another Federal order in 7 CFR, chapter X which serves as a supply plant for the partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of Section 7(c) of the order, subject to the following conditions:

(A) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ ____.30(b) and ____.31(b) of the order similar reports for each such nonpool supply plant;

(B) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at the plant which are made available if requested by the market administrator for verification purposes; and

(C) The value of milk determined pursuant to § ____.60 for the

unregulated supply plant shall be determined in the same manner prescribed for computing the obligation of the partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of the partially regulated distributing plant for milk received at the plant during the month that would have been producer milk had the plant been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another Federal order in 7 CFR, chapter X under which the plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

(c) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients assigned to Class I use under § 1000.43(d). Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the positive difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed and the Class IV price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one or more Federal orders in 7 CFR, chapter X and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.

§ 1000.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

§ 1000.78 Charges on overdue accounts.

Any unpaid obligation due the market administrator, producers, or cooperative associations from a handler pursuant to the provisions of the order shall be increased 1.0 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each succeeding month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously computed pursuant to this section. The late charges shall accrue to the administrative assessment fund. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Subpart I—Administrative Assessment and Marketing Service Deduction

§ 1000.85 Assessment for order administration.

On or before the payment receipt date specified under § ____.71 of each Federal milk order in 7 CFR, chapter X, each handler shall pay to the market administrator its pro rata share of the expense of administration of the order at a rate specified by the market administrator that is no more than 5 cents per hundredweight with respect to:

(a) Receipts of producer milk (including the handler's own production) other than such receipts by a handler described in § 1000.9(c) that were delivered to pool plants of other handlers;

(b) Receipts from a handler described in § 1000.9(c);

(c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to § 1000.43(d) and other source milk allocated to Class I pursuant to § 1000.44(a)(3) and (8) and the corresponding steps of § 1000.44(b), except other source milk that is excluded from the computations pursuant to § ____.60(d) and (e) of Parts 1005, 1006, and 1007 or § ____.60(h) and (i) of Parts 1001, 1030, 1032, 1033, 1124, 1126, 1131, and 1134 in 7 CFR, chapter X; and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1000.76(a)(1)(i)and (ii).

§ 1000.86 Deduction for marketing services.

(a) Except as provided in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of such handler's own production) pursuant to § ____.73 of each Federal milk order in 7 CFR, chapter X, shall deduct an amount specified by the market administrator that is no more than 7 cents per hundredweight and shall pay the amount deducted to the market administrator not later than the payment receipt date specified under § ____.71 of each Federal milk order in 7 CFR, chapter X. The money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. The services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator;

(b) In the case of producers for whom the market administrator has determined that a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and the producers. On or before the 15th day after the end of the month, such deductions shall be paid to the cooperative association rendering the services accompanied by a statement showing the amount of any deductions and the amount of milk for which the deduction was computed for each producer. These deductions shall be made in lieu of the deduction specified in paragraph (a) of this section.

Subpart J—Miscellaneous Provisions

§ 1000.90 Dates.

If a date required for a report, payment, or announcement contained in a Federal milk order in 7 CFR, chapter X falls on a Saturday, Sunday, or national holiday, such report, payment,

or announcement will be on the next day that the market administrator's office is open for public business.

§§ 1000.91—1000.92 [Reserved]

§ 1000.93 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of Title 44 U.S.C. chapter 35 and have been assigned OMB control number 0581–0032.

PART 1001—MILK IN THE NORTHEAST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1001.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1001.2 Northeast marketing area.

The marketing area means all the territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont and District of Columbia

All of the States of Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont and the District of Columbia.

Maryland Counties and City

All of the State of Maryland except the counties of Allegany and Garrett.

New York Counties and Cities

All counties within the State of New York except Chautauqua, Allegany (except the township Hume) and Cattaraugus (except the township Yorkshire).

Pennsylvania Counties

Adams, Bucks, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Juniata, Lancaster, Lebanon, Montgomery, Perry, Philadelphia, and York.

Virginia Counties and Cities

Counties of Arlington, Fairfax, Loudoun, and Prince William, and cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

§ 1001.3 Route disposition.

See § 1000.3 of this chapter.

§ 1001.4 Plant.

(a) Except as provided in paragraph (b) of this section, plant means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products are received, processed, or packaged, including a facility described in paragraph (b)(2) of this section if the facility receives the milk of more than one dairy farmer.

(b) Plant shall not include:

(1) A separate building without stationary storage tanks that is used only as a reload point for transferring bulk milk from one tank truck to another or a separate building used only as a distribution point for storing packaged fluid milk products in transit for route disposition; or

(2) An on-farm facility operated as part of a single dairy farm entity for the separation of cream and skim milk; or

(3) Bulk reload points where milk is transferred from one tank truck to another while en route from a dairy farmer's farms to a plant. If stationary storage tanks are used for transferring milk at the premises, the operator of the facility shall make an advance written request to the market administrator that the facility shall be treated as a reload point. The cooling of milk, collection of samples, and washing and sanitizing of tank trucks at the premises shall not disqualify it as a bulk reload point.

§ 1001.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1001.6 Supply plant.

See § 1000.6 of this chapter.

§ 1001.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (c) and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month total route disposition is equal to 25 percent or more of the total quantity of bulk fluid milk products physically received at the plant; and route disposition in the marketing area is at least 25 percent of total route disposition. For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant,

for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which fluid milk products are transferred or diverted to plants described in paragraph (a) or (b) of this section subject to the following additional conditions:

(1) During the months of August through December, such shipments must equal not less than 10 percent of the total quantity of bulk milk that is physically received at the plant during the month;

(2) During the months of September through November, such shipments must equal not less than 20 percent of the total quantity of bulk milk that is physically received at the plant during the month;

(3) A plant which meets the shipping requirements of this paragraph during each of the months of August through December shall be a pool plant during the following months of January through July unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement instituted pursuant to paragraph (f) of this section, or the plant operator requests nonpool status for the plant. The shipping requirement for any plant which has not met the requirements of paragraphs (c)(1) and (c)(2) of this section must equal not less than 10 percent of the total quantity of bulk milk that is physically received at the plant during each of the months of January through July in order for the plant to be a pool plant in each of those months; and

(4) If milk is delivered directly from producers' farms that are located outside of the states included in the marketing area or outside Maine or West Virginia, such producers must be grouped by state into units and each such unit must independently meet the shipping requirements of this paragraph.

(d) [Reserved]

(e) Two or more plants operated by the same handler and located in the marketing area qualified for pool status as a unit by meeting the total and in-area route distribution requirements specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit qualifies as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit; and

(3) A written request to form a unit, or to add or remove plants from a unit, or to cancel a unit, must be filed with the market administrator prior to the first day of the month for which unit formation it is to be effective.

(f) Two or more supply plants operated by the same handler, or by one or more cooperative associations, qualified for pooling as a system of supply plants by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant and subject to the following additional requirements:

(1) A written notification to the market administrator listing the plants to be included in the system prior to the first day of August that a system of supply plants will be effective for the period of September 1 through August 31 of the following year. The listed plants included in the system shall also be in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire system for pooling, the last listed plant shall be excluded from the system, followed by the plant next-to-last on the list, and continuing in this sequence until remaining listed plants have met the minimum shipping requirements; and

(2) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system through the following August unless the plant subsequently fails to qualify for pooling, the handler submits a written notification to the market administrator prior to the first day of the month that the plant be deleted from the system, or that the system be discontinued. Any plant that has been so deleted from the system, or that has failed to qualify as a pool plant in any month, will not be part of the system for the remaining months through August. No plant may be added in any subsequent month through the following August to a system that qualifies in September.

(g) The applicable shipping percentages of paragraphs (c) and (f) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for adjustment either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that an adjustment of the shipping percentages might be appropriate, the market administrator shall issue a notice stating that an adjustment is being considered and invite data, views and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section that is located within the marketing area if the plant also meets the pooling requirements of another Federal order and more than 50 percent of its route distribution has been in such other Federal order marketing area for three consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant qualified pursuant to paragraph (a) of this section that is located in another Federal order marketing area if the plant meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a pool plant designated as a ''nonpool plant'' that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must

be requested in writing by the handler and must be approved by the market administrator.

§ 1001.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1001.9 Handler.

See § 1000.9 of this chapter.

§ 1001.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order.

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own-farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1001.7(a) and the farm operated as a producer under § 1001.12.

§ 1001.11 [Reserved]

§ 1001.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1001.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1001.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I;

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and

(5) For any month of December through June, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in § 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under this order or any other Federal milk order, during the same month, either of the 2 preceding months, or during any of the preceding months of July through November; and

(6) For any month of July through November, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in § 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under this order or any other Federal milk order, during the same month.

§ 1001.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or from a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants subject to the following conditions:

(1) The producers whose farms are outside of the states included in the marketing area or outside of Maine or West Virginia shall be organized into state units and each such unit shall be reported separately; and

(2) For pooling purposes, each state unit so reported must satisfy the shipping standards specified for a supply plant pursuant to § 1001.7(c);

(c) Diverted by a proprietary pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or by a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless milk of such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) [Reserved]

(3) Diverted milk shall be priced at the location of the plant to which diverted; and

(4) [Reserved]

§ 1001.14 Other source milk.

See § 1000.14 of this chapter.

§ 1001.15 Fluid milk product.

See § 1000.15 of this chapter.

1001.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1001.17 [Reserved]

§ 1001.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1001.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1001.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) Each pool plant operator and each handler described in § 1000.9(c), shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of nonfat solids other than protein (other solids), and the value of the somatic cell adjustment contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) or (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1001.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1001.73(e);

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1001.32 Other reports.

In addition to the reports required pursuant to §§ 1001.30 and 1001.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1001.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1001.41 [Reserved]

§ 1001.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1001.43 General classification rules.

See § 1000.43 of this chapter.

§ 1001.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1001.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1001.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1001.51 Class I differential and price.

The Class I differential shall be the differential established for Suffolk County, Massachusetts, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Suffolk County, Massachusetts.

§ 1001.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1001.53 Announcement of class and component prices.

See § 1000.53 of this chapter.

§ 1001.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1001.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) *Class I value.* (1) Multiply the pounds of skim milk in Class I as determined pursuant to § 1000.44(a) by the applicable Class I skim milk price; and

(2) Add an amount obtained by multiplying the total pounds of butterfat in Class I as determined pursuant to § 1000.44 (b) by the Class I butterfat price.

(b) *Class II value.* (1) Add an amount obtained by multiplying the hundredweight of milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiplying the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price.

(c) *Class III value.* (1) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiplying the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price.

(d) *Class IV value.* (1) Add an amount obtained by multiplying the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiplying the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price.

(e) Add an adjustment for somatic cell content as determined by multiplying the value reported pursuant to

§ 1001.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c).

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective class skim milk prices and the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plant;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §§ 1000.43(d) and 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1001.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1001.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1001.60 for all handlers required to file reports prescribed in § 1001.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1001.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1001.60(e);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1001.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1001.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the *producer price differential* for the month.

§ 1001.62 Announcement of producer prices.

On or before the 13th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, nonfat solids, protein, and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat.

Payments for Milk

§ 1001.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1001.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 15th day after the end of the month.

§ 1001.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1001.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer;

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the day after the payment date required in § 1000.72 in an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1001.75;

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(iii) Multiply the pounds of protein received times the protein price for the month;

(iv) Multiply the pounds of other solids received times the other solids price for the month;

(v) Multiply the hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Add the amounts computed in paragraph (a)(2)(i) through (v) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk by the Class I skim milk price for the month;

(ii) Multiply the pounds of Class I butterfat by the Class I butterfat price for the month;

(iii) Multiply the hundredweight of Class II skim milk by the Class II differential price for the month;

(iv) Multiply the pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(v) Multiply the pounds of butterfat in Class II, III, and IV milk times the butterfat price for the month;

(vi) Multiply the pounds of protein received in Class III milk times the protein price for the month;

(vii) Multiply the pounds of other solids received in Class III milk times the other solids price for the month;

(viii) Multiply the hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment;

(ix) Add together the amounts computed in paragraph (b)(3)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1001.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1001.74 [Reserved]

§ 1001.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1001.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1001.50, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1001.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1001.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1001.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1001.85 Assessment for order administration.

See § 1000.85 of this chapter.

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PART 1005—MILK IN THE APPALACHIAN MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1005.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1005.2 Appalachian marketing area.

The marketing area means all the territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Georgia Counties

Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

Indiana Counties

Clark, Crawford, Daviess, Dubois, Floyd, Gibson, Greene, Harrison, Knox, Martin, Orange, Perry, Pike, Posey, Scott, Spencer, Sullivan, Vanderburgh, Warrick, and Washington.

Kentucky Counties

Adair, Anderson, Bath, Bell, Bourbon, Boyle, Breathitt, Breckinridge, Bullitt, Butler, Carroll, Carter, Casey, Clark, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Gallatin, Garrard, Grayson, Green, Hancock, Hardin, Harlan, Hart, Henderson, Henry, Hopkins, Jackson, Jefferson, Jessamine, Knott, Knox, Larue, Laurel, Lee, Leslie, Letcher, Lincoln, Madison, Marion, McCreary, McLean, Meade, Menifee, Mercer, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Perry, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Spencer, Taylor, Trimble, Union, Washington, Wayne, Webster, Whitley, Wolfe, and Woodford.

North Carolina and South Carolina

All of the States of North Carolina and South Carolina.

Tennessee Counties

Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington.

Virginia Counties and Cities

Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Washington, and Wise, and cities of Bristol and Norton.

West Virginia Counties

McDowell and Mercer.

§ 1005.3 Route disposition.

See § 1000.3 of this chapter.

§ 1005.4 Plant.

See § 1000.4 of this chapter.

§ 1005.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1005.6 Supply plant.

See § 1000.6 of this chapter.

§ 1005.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 50 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 10 percent of such receipts. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the purpose of determining the transferring plant's pool status under this paragraph.

(b) Any distributing plant located in the marketing area which during the month processed a majority of its milk receipts into aseptically packaged fluid

milk products. If the plant had no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

(c) A supply plant from which 50 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area or in the State of Virginia that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and that are located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order; and

(6) That portion of a pool plant designated as a ''nonpool plant'' that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in writing by the handler and must be approved by the market administrator.

§ 1005.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1005.9 Handler.

See § 1000.9 of this chapter.

§ 1005.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds per month, unless the person requests that the two be operated as separate entities with the distributing plant regulated under § 1005.7(a) and the farm operated as a producer under § 1005.12;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production;

(d) Disposes of no fluid milk products using the distribution system of another handler; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§ 1005.11 [Reserved]

§ 1005.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1005.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1005.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1005.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but

which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of July through December, not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of January through June, not less than 2 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 40 percent during the months of December and March through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1005.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1005.14 Other source milk.

See § 1000.14 of this chapter.

§ 1005.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1005.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1005.17 [Reserved]

§ 1005.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1005.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1005.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1007, for which a transportation credit is requested pursuant to § 1005.82;

(6) Receipts of producer milk described in § 1005.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1005.82, all of the information required in paragraph (a)(5), (a)(6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1005.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1005.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1005.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1005.30(a)(5), (6), and (7).

(b) In addition to the reports required pursuant to §§ 1005.30, 31, and 32(a), each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1005.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1005.41 [Reserved]

§ 1005.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1005.43 General classification rules.

See § 1000.43 of this chapter.

§ 1005.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1005.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1005.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50. The Class I differential shall be the differential established for Meklenburg County, North Carolina, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Meklenburg County, North Carolina.

§ 1005.51 [Reserved]

§ 1005.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1005.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1005.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1005.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(e); and

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1005.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) *Uniform price.* For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1005.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1005.60 for all handlers required to file reports prescribed in § 1005.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1005.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5 percent butterfat, the value of the required pounds of butterfat times the uniform butterfat price computed in paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1005.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the ''uniform price'' for the month.

(b) *Uniform butterfat price.* The uniform butterfat price per pound,

rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price.* The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month pursuant to pursuant to paragraph (a) of this section less the uniform butterfat price for the month pursuant to paragraph (b) of this section multiplied by 3.5 pounds of butterfat, with the result divided by .965.

§ 1005.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1005.61 for such month;

(b) The uniform butterfat price pursuant to § 1005.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1005.61(c) for such month.

Payments for Milk

§ 1005.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1005.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 12th day after the end of the month.

§ 1005.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1005.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1005.75 and proper deductions authorized in writing by the producer;

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1000.72 an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1005.75;

(ii) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1005.75;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of milk assigned to each class pursuant to § 1000.44 by the class prices for the month, adjusted for plant location and butterfat value, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1005.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1005.74 [Reserved]

§ 1005.75 Plant location adjustments for producer milk and nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1005.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1005.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1005.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1005.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1005.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Marketwide Service Payments

§ 1005.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the *Transportation Credit Balancing Fund* into which shall be deposited the payments made by handlers pursuant to § 1005.81 and out of which shall be made the payments due handlers pursuant to § 1005.82. Payments due a handler shall be offset against payments due from the handler.

§ 1005.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1000.9(a) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1005.44 by $0.065 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June-January period. In the event that during any month of the June-January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1005.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1005.30(a)(5), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1005.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1005.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraph (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1005.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1007, and allocated to Class I milk pursuant to § 1000.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by

multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1000.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1000.44;

(ii) The dairy farmer was not a ''producer'' under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing area of Federal Order 1007.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1005.53;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

Administrative Assessment and Marketing Service Deduction

§ 1005.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1005.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1006—MILK IN THE FLORIDA MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1006.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1006.2 Florida marketing area.

The marketing area means all the territory within the State of Florida, except the counties of Escambia, Okaloosa, Santa Rosa, and Walton., including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions.

§ 1006.3 Route disposition.

See § 1000.3 of this chapter.

§ 1006.4 Plant.

See § 1000.4 of this chapter.

§ 1006.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1006.6 Supply plant.

See § 1000.6 of this chapter.

§ 1006.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 50 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 10 percent of such receipts. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the purpose of determining the transferring plant's pool status under this paragraph.

(b) Any distributing plant located in the marketing area which during the month processed a majority of its milk receipts into aseptically packaged fluid milk products. If the plant had no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

(c) A supply plant from which 60 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and that are located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order.

§ 1006.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1006.9 Handler.

See § 1000.9 of this chapter.

§ 1006.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds per month, unless the person requests that the two be operated as separate entities with the distributing plant regulated under § 1006.7(a) and the farm operated as a producer under § 1006.12;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the

nonfat milk solids content of the fluid milk products received from own farm production;

(d) Disposes of no fluid milk products using the distribution system of another handler; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§ 1006.11 [Reserved]

§ 1006.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1006.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1006.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1006.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month, not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 20 percent during the months of July through November, 25 percent during the months of December through February, and 40 percent during all other months, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1006.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(5) Diverted milk shall be priced at the location of the plant to which diverted; and

(6) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1006.14 Other source milk.

See § 1000.14 of this chapter.

§ 1006.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1006.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1006.17 [Reserved]

§ 1006.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1006.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1006.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(6) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been

fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1006.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9 (a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1006.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1006.32 Other reports.

(a) In addition to the reports required pursuant to §§ 1006.30 and 1006.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

(b) [Reserved]

Classification of Milk

§ 1006.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1006.41 [Reserved]

§ 1006.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1006.43 General classification rules.

See § 1000.43 of this chapter.

§ 1006.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1006.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1006.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50.

The Class I differential shall be the differential established for Hillsborough County, Florida, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Hillsborough County, Florida.

§ 1006.51 [Reserved]

§ 1006.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1006.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1006.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1006.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) **by the applicable skim milk and butterfat prices, and add the resulting amounts;**

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43 (b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3) (i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(e); and

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1006.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) *Uniform price.* For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1006.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market

administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1006.60 for all handlers required to file reports prescribed in § 1006.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1006.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5 percent butterfat, the value of the required pounds of butterfat times the uniform butterfat price computed in paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1006.60(f); and

(6) Subtract not less than 4 cents not more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the ''uniform price'' for the month.

(b) *Uniform butterfat price.* The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price.* The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month pursuant to pursuant to paragraph (a) of this section less the uniform butterfat price for the month pursuant to paragraph (b) of this section multiplied by 3.5 pounds of butterfat, with the result divided by .965.

§ 1006.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1006.61 for such month;

(b) The uniform butterfat price pursuant to § 1006.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1006.61(c) for such month.

Payments for Milk

§ 1006.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1006.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 12th day after the end of the month.

§ 1006.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1006.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payments.* (i) For each producer who has not discontinued shipments as of the 15th day of the month, payment shall be made so that it is received by the producer on or before the 20th day of the month for milk received during the first 15 days of the month at not less than the 85 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1006.75 and proper deductions authorized in writing by the producer; and

(ii) For each producer who has not discontinued shipments as of the last day of the month, payment shall be made so that it is received by the producer on or before the 5th day of the following month for milk received from the 16th to the last day of the month at not less than the 85 percent of the preceding month's uniform price, adjusted for plant location pursuant to 1006.75 and proper deductions authorized in writing by the producer.

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1000.72 an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1006.75;

(ii) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1006.75;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of milk assigned to each class pursuant to § 1000.44 by the class prices for the month, adjusted for plant location and butterfat value, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator

pursuant to § 1006.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1006.74 [Reserved]

§ 1006.75 Plant location adjustments for producer milk and nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1006.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1006.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1006.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1006.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1006.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Adminstrative Assessment and Marketing Service Deduction

§ 1006.85 Assessment for order administration.

See § 1000.85 of this chapter.

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See § 1000.86 of this chapter.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1007.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1007.2 Southeast marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part

thereof is within any of the listed states or political subdivisions:

Alabama, Arkansas, Louisiana, and Mississippi

All of the States of Alabama, Arkansas, Louisiana, and Mississippi.

Florida Counties

Escambia, Okaloosa, Santa Rosa, and Walton.

Georgia Counties

All of the State of Georgia except for the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Walker, and Whitfield.

Kentucky Counties

Allen, Ballard, Barren, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, Metcalfe, Monroe, Simpson, Todd, Trigg, and Warren.

Missouri Counties

Barry, Barton, Bollinger, Butler, Cape Girardeau, Carter, Cedar, Christian, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Greene, Howell, Iron, Jasper, Laclede, Lawrence, Madsion, McDonald, Mississippi, New Madrid, Newton, Oregon, Ozark, Pemiscot, Perry, Polk, Pulaski, Reynolds, Ripley, Scott, Shannon, St. Francois, Stoddard, Stone, Taney, Texas, Vernon, Washington, Wayne, Webster, and Wright.

Tennessee Counties

All of the State of Tennessee except for the counties of Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington.

§ 1007.3 Route disposition.

See § 1000.3 of this chapter.

§ 1007.4 Plant.

See § 1000.4 of this chapter.

§ 1007.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1007.6 Supply plant.

See § 1000.6 of this chapter.

§ 1007.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 50 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 10 percent of such receipts. Packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the purpose of determining the transferring plant's pool status under this paragraph.

(b) Any distributing plant located in the marketing area which during the month processed a majority of its milk receipts into aseptically packaged fluid milk products. If the plant had no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

(c) A supply plant from which 50 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 60 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area, meets the pooling requirements of another Federal order, and has had greater route disposition in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is located in another Federal order marketing area, meets the pooling standards of the other Federal order, and has not had a majority of its route disposition in this marketing area for 3 consecutive months or is locked into pool status under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(5) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under such other order than are made to plants regulated under this order, or such plant has automatic pooling status under such other order.

§ 1007.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1007.9 Handler.

See § 1000.9 of this chapter.

§ 1007.10 Producer-handler.

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds per month, unless the person requests that the two be operated as separate entities with the distributing plant regulated under § 1007.7(a) and

the farm operated as a producer under § 1007.12;

(b) Receives no fluid milk products, and acquires no fluid milk products for route disposition, from sources other than own farm production;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production;

(d) Disposes of no fluid milk products using the distribution system of another handler; and

(e) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled, and the processing, packaging, and distribution operations, are the producer-handler's own enterprise and are operated at the producer-handler's own risk.

§ 1007.11 [Reserved]

§ 1007.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1007.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1007.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1007.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of January through June, not less than 4 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of July through December, not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 33 percent during the months of July through December, and 50 percent during the months of January through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 33 percent during the months of July through December, or 50 percent during the months of January through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1007.7(e)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c);

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1007.14 Other source milk.

See § 1000.14 of this chapter.

§ 1007.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1007.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1007.17 [Reserved]

§ 1007.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1007.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1007.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Receipts of bulk milk from a plant regulated under another Federal order,

except Federal Order 1005, for which a transportation credit is requested pursuant to § 1007.82;

(6) Receipts of producer milk described in § 1007.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a)(1), (a)(2), (a)(3), (a)(4), and (a)(8) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1007.82, all of the information required in paragraph (a)(5), (a)(6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1007.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for the month, in detail prescribed by the market administrator, showing for each producer the information specified in § 1007.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1007.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1000.9(a) and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1007.30(a)(5), (6), and (7).

(b) In addition to the reports required pursuant to §§ 1007.30, 31, and 32(a), each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1007.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1007.41 [Reserved]

§ 1007.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1007.43 General classification rules.

See § 1000.43 of this chapter.

§ 1007.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1007.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1007.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50. The Class I differential shall be the differential established for Fulton County, Georgia, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Fulton County, Georgia.

§ 1007.51 [Reserved]

§ 1007.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1007.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1007.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1007.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk

products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(e); and

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1007.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) *Uniform price.* For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1007.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1007.60 for all handlers required to file reports prescribed in § 1007.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1007.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5 percent butterfat, the value of the required pounds of butterfat times the uniform butterfat price computed in paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1007.60(f); and

(6) Subtract not less than 4 cents not more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the ''uniform price'' for the month.

(b) *Uniform butterfat price.* The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price.* The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month pursuant to paragraph (a) of this section less the uniform butterfat price for the month pursuant to paragraph (b) of this section multiplied by 3.5 pounds of butterfat, with the result divided by .965.

§ 1007.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of the month, the market administrator shall announce the following prices and information:

(a) The uniform price pursuant to § 1007.61 for such month;

(b) The uniform butterfat price pursuant to § 1007.61(b) for such month; and

(c) The uniform skim milk price pursuant to § 1007.61(c) for such month.

Payments for Milk

§ 1007.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1007.71 Payments to the producer-settlement fund.

The payments to the producer-settlement fund specified in § 1000.71 are due no later than the 12th day after the end of the month.

§ 1007.72 Payments from the producer-settlement fund.

See § 1000.72 of this chapter.

§ 1007.73 Payments to producers and to cooperative associations.

(a) Each pool plant operator that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75 and proper deductions authorized in writing by the producer;

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1000.72 an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1007.75;

(ii) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final

payment shall be the classified value of such milk as determined by multiplying the pounds of milk assigned to each class pursuant to § 1000.44 by the class prices for the month, adjusted for plant location and butterfat value, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9 (a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1007.74 [Reserved]

§ 1007.75 Plant location adjustments for producer milk and nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price the amount by which the Class I price specified in § 1007.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1007.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1007.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1007.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1007.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Marketwide Service Payments

§ 1007.80 Transportation credit balancing fund.

The market administrator shall maintain a separate fund known as the *Transportation Credit Balancing Fund* into which shall be deposited the payments made by handlers pursuant to § 1007.81 and out of which shall be made the payments due handlers pursuant to § 1007.82. Payments due a handler shall be offset against payments due from the handler.

§ 1007.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1000.9 (a) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1000.44 by $0.07 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June–January period. In the event that during any month of the June–January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1007.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1007.30(a)(5), bulk milk transferred from a plant fully regulated under another Federal order as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1007.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1007.32(a). After

such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraphs (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1000.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1007.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (*i.e.*, the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1005, and allocated to Class I milk pursuant to § 1000.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1000.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1000.44;

(ii) The dairy farmer was not a ''producer'' under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing area of Federal Order 1005.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1007.53;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

Administrative Assessment and Marketing Service Deduction

§ 1007.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1007.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1030—MILK IN THE UPPER MIDWEST MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

1030.85 Assessment for order administration.
1030.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1030.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1030.2 Upper Midwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Illinois Counties

Boone, Carroll, Cook, De Kalb, Du Page, Jo Daviess (except the city of East Dubuque), Kane, Kendall, Lake, Lee, McHenry, Ogle, Stephenson, Whiteside (the townships of Caloma, Hahnaman, Hopkins, Hume, Jordan, Montmorency, Sterling, and Tampico only), Will, and Winnebago.

Iowa Counties

Howard, Kossuth, Mitchell (except the city of Osage), Winnebago, Winneshiek, and Worth.

Michigan Counties

Delta, Dickinson, Gogebic, Iron, Menominee, and Ontonagon.

Minnesota

All counties except Lincoln, Nobles, Pipestone, and Rock.

North Dakota Counties

Barnes, Cass, Cavalier, Dickey, Grand Forks, Griggs, La Moure, Nelson, Pembina, Ramsey, Ransom, Richland, Sargent, Steele, Traill, and Walsh.

South Dakota Counties

Brown, Day, Edmunds, Grant, Marshall, McPherson, Roberts, and Walworth.

Wisconsin Counties

All counties except Crawford and Grant.

§ 1030.3 Route disposition.

See § 1000.3 of this chapter.

§ 1030.4 Plant.

See § 1000.4 of this chapter.

§ 1030.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1000.6 Supply plant.

See § 1000.6 of this chapter.

§ 1030.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 15 percent of more of the total quantity of bulk fluid milk products physically received at the plant;

(2) Route disposition in the marketing area is at least 15 percent of total route disposition; and

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which the quantity of bulk fluid milk products shipped to, received at, and physically unloaded into plants described in paragraph (a) or (b) of this section as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1000.9(c), as reported in § 1030.30(a), is not less than 10 percent of the milk received from dairy farmers, including milk diverted pursuant to § 1030.13, subject to the following conditions:

(1) Qualifying shipments pursuant to this paragraph may be made to the following plants, except whenever the authority provided in paragraph (g) of this section is applied to increase the shipping requirements specified in this section, only shipments to pool plants described in § 1030.7(a) and (b), and units described in § 1030.7(e) shall count as qualifying shipments for the purpose of meeting the increased shipments:

(i) Pool plants described in § 1030.7(a), (b) and (e);

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk classified as Class I at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for shipments to such plants shall be limited to the quantity shipped to pool distributing plants during the month and credits for shipments to other order plants shall not include any such shipments made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(2) The operator of a supply plant may include as qualifying shipments deliveries to pool distributing plants and deliveries to plants described in § 1030.7(e) directly from farms of producers pursuant to § 1030.13(c).

(d) [Reserved]

(e) Two or more plants operated by the same handler and located in the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements of a pool distributing plant specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products; and

(3) The operator of the unit has filed a written request with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month-to-month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) A system of supply plants may be qualified for pooling by the association of two or more supply plants operated by one or more handlers by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant and subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area, or was a pool supply plant pursuant to § 1068.7(b) for each of the three months immediately preceding the effective date of this paragraph so long as it continues to maintain pool status. Cooperative associations may not use shipments pursuant to § 1000.9(c) to qualify plants located outside the marketing area;

(2) The handler(s) establishing the system submits a written request to the market administrator on or before July 15 requesting that such plants qualify as a system for the period of August through July of the following year. Such request will contain a list of the plants participating in the system in the order, beginning with the last plant, in which the plants will be dropped from the system if the system fails to qualify. Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system through the following July unless the handler(s) establishing the system submits a written request to the market administrator that the plant be deleted from the system or that the system be discontinued. Any plant that has been so deleted from a system, or that has failed to qualify in any month, will not be part of any system for the remaining months through July. The handler(s) that established a system may add a plant operated by such handler(s) to a system, if such plant has been a pool plant each of the six prior months and would otherwise be eligible to be in a system, upon written request to the market administrator no later than the 15th day of the prior month. In the event of an ownership change or business failure of a handler that is a participant in a system, the system may be reorganized to reflect such changes by submitting a written request to file a new marketing agreement with the market administrator; and

(3) If a system fails to qualify under the requirements of this paragraph, the handler responsible for qualifying the system shall notify the market administrator which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continuing up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system.

(g) The performance standards of paragraphs (a), (c), (d), (e) and (f) of this section may be increased or decreased, for part or all of the marketing area, by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary the market administrator shall investigate the need for revision, either on such person's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

(i) Any plant that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraph (c) of

this section that is unable to meet such performance standards for the current month because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than two consecutive months.

§ 1030.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1030.9 Handler.

See § 1000.9 of this chapter.

§ 1030.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1030.7(a) and the farm operated as a producer under § 1030.12.

§ 1030.11 [Reserved]

§ 1030.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1030.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1030.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1030.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's production of such dairy farmer is physically received as producer milk at a pool plant during the first month the dairy farmer is a producer. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval or as a result of the handler of the dairy farmer's milk failing to pool the milk under any order), the dairy farmer's milk shall not be eligible for diversion unless at least one day's production of the dairy farmer has been physically received as producer milk at a pool plant during the first month the dairy farmer is re-associated with the market;

(2) The quantity of milk delivered to plants described in § 1030.7(c)(1) as a percentage of the total milk accounted for by the cooperative association described in § 1000.9(c) must be at least 10 percent, subject to § 1030.7(g);

(3) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1030.14 Other source milk.

See § 1000.14 of this chapter.

§ 1030.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1030.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1030.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1030.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1030.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1030.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1030.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to § 1030.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1030.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1030.32 Other reports.

In addition to the reports required pursuant to §§ 1030.30 and 1030.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1030.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1030.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1000.43 General classification rules.

See § 1000.43 of this chapter.

§ 1000.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1000.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1030.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1030.51 Class I differential and price.

The Class I differential shall be the differential established for Cook County, Illinois, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Cook County, Illinois.

§ 1030.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1030.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1030.54 Equivalent price.

See § 1000.54 of this chapter.

§ 1030.55 Transfer credits and assembly credits on Class I milk.

(a) For bulk milk transferred from a pool plant to a pool distributing plant, and which is classified as Class I milk, the shipping handler shall receive a transportation credit computed by multiplying the pounds of Class I milk by the product of .0028 times the number of miles between the transferor plant and the transferee plant.

(b) For each handler who transfers or diverts bulk fluid milk from a pool plant to a pool distributing plant a procurement credit shall be determined by multiplying the hundredweight of milk classified as Class I at the pool plant by 8 cents.

(c) For each handler described in § 1000.9(c), a procurement credit for bulk fluid milk received as producer milk at a pool distributing plant shall be determined by prorating the producer milk classified as Class I at the pool distributing plant, and multiplying by 8 cents per hundredweight.

(d) For each handler operating a pool distributing plant pursuant to § 1030.7(a) or (b), a procurement credit for bulk fluid milk received shall be calculated by multiplying the producer milk classified as Class I at the pool distributing plant by 8 cents per hundredweight.

(e) For purposes of this section, the distances to be computed shall be determined by the market administrator using the shortest available state and/or Federal highway mileage. Mileage determinations are subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of such redetermination within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any periods prior to the redetermination by the market administrator.

Producer Price Differential

§ 1030.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price;

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add an adjustment for somatic cell content of producer milk determined by multiplying the value reported pursuant to § 1030.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract an amount equal to any credits applicable pursuant to § 1030.55;

(k) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(l) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1030.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1030.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1030.60 for all handlers required to file reports prescribed in § 1030.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1030.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1030.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1030.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1030.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1030.62 Announcement of producer prices.

On or before the 13th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1030.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1030.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the

funds by the market administrator no later than the 15th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1030.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1030.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1030.60(i) by the producer price differential as adjusted pursuant to § 1030.75 for the location of the plant from which received.

§ 1030.72 Payments from the producer-settlement fund.

No later than the 16th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1030.71(b) exceeds the amount computed pursuant to § 1030.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1030.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 17th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1030.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative association members.* On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.

(c) *Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c).* On or before the day prior to the dates specified in paragraph (a)(1) and (a)(2) of this section, each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the shipping plant;

(ii) The hundredweight of Class II skim milk times $ .70;

(iii) The pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(iv) The pounds of butterfat received in Class II, Class III, and Class IV milk times the butterfat price for the month;

(v) The pounds of protein received in Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment; and

(viii) Add together the amounts computed in paragraphs (c)(2)(i) through (vii) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1030.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Add together the amounts computed in paragraphs (c)(3)(i) through (v) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1030.72 by the payment date specified in paragraph (a), (b) or (c)(2) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b), prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1030.74 [Reserved]

§ 1030.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1030.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1030.51, the difference shall be added to the producer price differential price; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1030.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1030.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1030.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1030.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1030.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1032—MILK IN THE CENTRAL MARKETING AREA

Subpart—Order Regulating Handling

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1032.85 Assessment for order administration.
1032.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1032.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1032.2 Central marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations,

installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

(a) In the State of Colorado, the counties of: Adams, Arapahoe, Baca, Bent, Boulder, Clear Creek, Cheyenne, Crowley, Custer, Denver, Douglas, El Paso, Elbert, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Larimer, Las Animas, Lincoln, Logan, Morgan, Otero, Park, Phillips, Prowers, Pueblo, Sedgwick, Teller, Washington, Weld, and Yuma.

(b) In the State of Illinois, the counties of:

(1) Adams, Alexander, Bond, Brown, Bureau, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, De Witt, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Kankakee, Knox, La Salle, Lawrence, Livingston, Logan, McDonough, McLean, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, Saline, Sangamon, Schuyler, Scott, Shelby, St. Clair, Stark, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Williamson, and Woodford;

(2) In Jo Daviess County, the city of East Dubuque; and

(3) In Whiteside County, the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lyndon, Fenton, Newton, Prophetstown, Portland, and Erie.

(c) In the State of Iowa:

(1) All of the counties except: Howard, Kossuth, Mitchell (except the city of Osage), Winnebago, Winneshiek, and Worth; and

(2) In Mitchell County the city of Osage.

(d) All of the State of Kansas.

(e) In the State of Minnesota, the counties of: Lincoln, Nobles, Pipestone, and Rock.

(f) In the State of Missouri: (1) The counties of:

Andrew, Atchison, Bates, Buchanan, Caldwell, Carroll, Cass, Clark, Clay, Clinton, Daviess, De Kalb, Franklin, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Jackson, Jefferson, Johnson, Knox, Lafayette, Lewis, Lincoln, Livingston, Marion, Mercer, Nodaway, Pettis, Platte, Putnam, Ray, Saline, Schuyler, Scotland, Shelby, St. Charles, St. Clair, Ste. Genevieve, St. Louis, Sullivan, Warren, and Worth; and

(2) The city of St. Louis.

(g) In the State of Nebraska, the counties of: Adams, Antelope, Boone, Buffalo, Burt, Butler, Cass, Cedar, Chase, Clay, Colfax, Cuming, Custer, Dakota, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Jefferson, Johnson, Kearney, Keith, Knox, Lancaster, Lincoln, Madison, Merrick, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Saline, Sarpy, Saunders, Seward, Sherman, Stanton, Thayer, Thurston, Valley, Washington, Wayne, Webster, and York.

(h) All of the State of Oklahoma.

(i) In the State of South Dakota, the counties of: Aurora, Beadle, Bon Homme, Brookings, Clark, Clay, Codington, Davison, Deuel, Douglas, Hamlin, Hanson, Hutchinson, Jerauld, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Spink, Turner, Union, and Yankton.

(j) In the State of Wisconsin, the counties of: Crawford and Grant.

§ 1032.3 Route disposition.

See § 1000.3 of this chapter.

§ 1032.4 Plant.

See § 1000.4 of this chapter.

§ 1032.5 Distributing plant.

§ 1000.5 of this chapter.

§ 1032.6 Supply plant.

§ 1000.6 of this chapter.

§ 1032.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 25 percent of more of the total quantity of bulk fluid milk products physically received at the plant; and

(2) Route disposition in the marketing area is at least 15 percent of total route disposition.

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which the quantity of bulk fluid milk products transferred or diverted to plants described in paragraph (a) or (b) of this section during each of the months of September through November and January is 35 percent or more of the total Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1032.12(b)) and handlers described in § 1000.9(c), including milk diverted by the plant operator, and 25 percent for all other months, subject to the following conditions:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of August through April shall continue to so qualify in each of the following months of May through July, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of milk shipments;

(2) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1032.13(c);

(3) The operator of a supply plant may include as qualifying shipments transfers of fluid milk products to distributing plants regulated under any other Federal order, except that credit for such transfers shall be limited to the amount of milk, including milk shipped directly from producers' farms, delivered to distributing plants qualified as pool plants pursuant to paragraphs (a) or (b) of this section;

(4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding three months.

(d) A plant located in the marketing area and operated by a cooperative association if, during the month or the immediately preceding 12-month period, 35 percent or more of the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at

plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants operated by the same handler and located in the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements of a pool distributing plant specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) The operator of the unit has filed a written request with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) A system of supply plants may be qualified for pooling by the association of two or more supply plants operated by one or more handlers by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant, subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area;

(2) The handler(s) establishing the system submits a written request to the market administrator on or before September 1 requesting that such plants qualify as a system for the period of September through August of the following year. Such request will contain a list of the plants participating in the system.

(3) Each plant included within a pool supply plant system shall continue each month as a plant in the system through the following August unless the handler(s) establishing the system submits a written request to the market administrator that the plant be deleted from the system or that the system be discontinued. Any plant that has been so deleted from a system, or that has failed to qualify in any month, will not be part of any system for the remaining months through August. No plant may be added in any subsequent month through the following August to a system that qualifies in September.

(4) If a system fails to qualify under the requirements of this paragraph, the handler responsible for qualifying the system shall notify the market administrator which plant or plants will be deleted from the system so that the remaining plants may be pooled as a system. If the handler fails to do so, the market administrator shall exclude one or more plants, beginning at the bottom of the list of plants in the system and continuing up the list as necessary until the deliveries are sufficient to qualify the remaining plants in the system;

(g) The applicable shipping percentages of paragraphs (a), (c), (d), and (f) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the market administrator is to be effective, the market administrator may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

§ 1032.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1032.9 Handler.

See § 1000.9 of this chapter.

§ 1032.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants

fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1032.7(a) and the farm operated as a producer under § 1032.12.

§ 1032.11 [Reserved]

§ 1032.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1032.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1032.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1032.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 65 percent during the months of September through November and January, and not more than 75 percent during the months of February through August and December;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk; and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1032.14 Other source milk.

See § 1000.14 of this chapter.

§ 1032.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1032.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1032.17 [Reserved]

§ 1032.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1032.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1032.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1032.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of

solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1032.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1032.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1032.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1032.32 Other reports.

In addition to the reports required pursuant to §§ 1032.30 and 1032.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1032.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1032.41 [Reserved]

§ 1032.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1032.43 General classification rules.

See § 1000.43 of this chapter.

§ 1032.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1032.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1032.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1032.51 Class I differential and price.

The Class I differential shall be the differential established for Jackson County, Missouri, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Jackson County, Missouri.

§ 1032.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1032.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1032.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1032.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add an adjustment for somatic cell content of producer milk determined by multiplying the value reported pursuant to § 1032.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the

Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1032.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1032.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1032.60 for all handlers required to file reports prescribed in § 1032.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1032.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1032.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1032.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1032.62 Announcement of producer prices.

On or before the 11th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1032.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1032.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 14th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1032.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1032.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1032.60(i) by the producer price differential as adjusted pursuant to § 1032.75 for the location of the plant from which received.

§ 1032.72 Payments from the producer-settlement fund.

No later than the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.71(b) exceeds the amount computed pursuant to § 1032.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1032.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 17th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1032.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative association members.* On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.

(c) *Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c).* On or before the day prior to the dates specified in paragraph (a)(1) and (a)(2) of this section, each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the shipping plant;

(ii) The hundredweight of Class II skim milk times $.70;

(iii) The pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(iv) The pounds of butterfat received in Class II, Class III, and Class IV milk times the butterfat price for the month;

(v) The pounds of protein received in Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class III milk times the other solids price for the month;

(vii) The hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment; and

(viii) Add together the amounts computed in paragraphs (c)(2)(i) through (vii) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1032.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month; and

(vi) Add together the amounts computed in paragraphs (c)(3)(i) through (v) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1032.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b), prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1032.74 [Reserved]

§ 1032.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1032.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1032.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1032.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1032.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1032.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

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PART 1033—MILK IN THE MIDEAST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1033.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1033.2 Mideast marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Ohio

All of the State of Ohio.

Indiana Counties

Adams, Allen, Bartholomew, Benton, Blackford, Boone, Brown, Carroll, Cass, Clay, Clinton, Dearborn, Decatur, De Kalb, Delaware, Elkhart, Fayette, Fountain, Franklin, Fulton, Grant, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jefferson, Jennings, Johnson, Kosciusko, Lagrange, Lake, La Porte, Lawrence, Madison, Marion, Marshall, Miami, Monroe, Montgomery, Morgan, Newton, Noble, Ohio, Owen, Parke, Porter, Pulaski, Putnam, Randolph, Ripley, Rush, Shelby, St. Joseph, Starke, Steuben, Switzerland, Tippecanoe, Tipton, Union, Vermillion, Vigo, Wabash, Warren, Wayne, Wells, White, and Whitley.

Kentucky Counties

Boone, Boyd, Bracken, Campbell, Floyd, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Pendleton, Pike, and Robertson.

Michigan Counties

All counties except Delta, Dickinson, Gogebic, Iron, Menominee, and Ontonagon.

Pennsylvania Counties

Allegheny, Armstrong, Beaver, Butler, Crawford, Erie, Fayette, Greene, Lawrence, Mercer, Venango, and Washington.

In Clarion County only the townships of Ashland, Beaver, Licking, Madison, Perry, Piney, Richland, Salem, and Toby.

All of Westmoreland County except the townships of Cook, Donegal, Fairfield, Ligonier, and St. Clair, and the boroughs of Bolivar, Donegal, Ligonier, New Florence, and Seward.

West Virginia Counties

Barbour, Boone, Brooke, Cabell, Calhoun, Doddridge, Fayette, Gilmer, Hancock, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, Mingo, Monongalia, Ohio, Pleasants, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wayne, Wetzel, Wirt, Wood, and Wyoming.

§ 1033.3 Route disposition.

See § 1000.3 of this chapter.

§ 1033.4 Plant.

See § 1000.4 of this chapter.

§ 1033.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1033.6 Supply plant.

See § 1000.6 of this chapter.

§ 1033.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 30 percent or more of the total quantity of bulk fluid milk products physically received at the plant;

(2) Route disposition in the marketing area is at least 30 percent of total route disposition.

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which the quantity of bulk fluid milk products shipped to, received at, and physically unloaded into plants described in paragraph (a) or (b) of this section as a percent of the Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1033.12(b)) and handlers described in § 1033.9(c), as reported in § 1033.30(a), is not less than 30 percent of the milk received from dairy farmers, including milk diverted pursuant to § 1033.13, subject to the following conditions:

(1) Qualifying shipments pursuant to this paragraph may be made to the following plants, except whenever the authority provided in paragraph (g) of this section is applied to increase the shipping requirements specified in this section, only shipments to pool plants described in § 1033.7(a) and (b), and units described in § 1033.7(e) shall count as qualifying shipments for the purpose of meeting the increased shipments:

(i) Pool plants described in § 1033.7(a), (b) and (e);

(ii) Plants of producer-handlers;

(iii) Partially regulated distributing plants, except that credit for such shipments shall be limited to the amount of such milk classified as Class I at the transferee plant; and

(iv) Distributing plants fully regulated under other Federal orders, except that credit for transfers to such plants shall be limited to the quantity shipped to pool distributing plants during the month. Qualifying transfers to other order plants shall not include transfers made on the basis of agreed-upon Class II, Class III, or Class IV utilization.

(2) The operator of a supply plant may include deliveries to pool distributing plants directly from farms of producers pursuant to § 1033.13(c) as up to 90 percent of the supply plant's qualifying shipments;

(3) A supply plant that meets the shipping requirements of this paragraph during each of the immediately preceding months of September through February shall be a pool plant during the following months of March through August unless the milk received at the plant fails to meet the requirements of a duly constituted regulatory agency, the plant fails to meet a shipping requirement instituted pursuant to paragraph (f) of this section, or the plant operator requests nonpool status for the plant. Such nonpool status shall be effective on the first day of the month following the receipts of such request and thereafter until the plant again qualifies as a pool plant on the basis of its deliveries to a pool distributing plant(s).

The automatic pool qualification of a plant can be waived if the handler or cooperative requests in writing to the market administrator the nonpool status of such plant. The request must be made prior to the beginning of any month during the March through August period. The plant shall be a nonpool plant for such month and thereafter until it requalifies under paragraph (c) of this section on the basis of actual shipments therefrom. To requalify as a pool plant under paragraph (d), (e) or (f) of this section, such plant must first have met the percentage shipping requirements of paragraph (c) of this section for 6 consecutive months; and

(4) A supply plant that does not meet the minimum delivery requirements specified in this paragraph to qualify for pool status in the current month because a distributing plant to which the supply plant delivered its fluid milk products during such month failed to qualify as a pool plant pursuant to paragraph (a) or (b) of this section shall continue to be a pool plant for the current month if such supply plant qualified as a pool plant in the three immediately preceding months.

(d) A plant operated by a cooperative association if, during the month, 35 percent or more of the producer milk of members of the association is delivered to a distributing pool plant(s) or to a nonpool plant(s), and classification other than Class I is not requested. Deliveries for qualification purposes may be made directly from the farm or by transfer from such association's plant, subject to the following conditions:

(1) The cooperative requests pool status for such plant;

(2) The 35-percent delivery requirement may be met for the current month or it may be met on the basis of deliveries during the preceding 12-month period ending with the current month;

(3) The plant is approved by a duly constituted regulatory authority to handle milk for fluid consumption; and

(4) The plant does not qualify as a pool plant under (a), (b), or (c) of this section or under the similar provisions of another Federal order applicable to a distributing plant or supply plant.

(e) A plant located inside the marketing area which has been a pool plant under this order or its predecessor orders for twelve consecutive months, but is not otherwise qualified under this paragraph, if it has a marketing agreement with a cooperative association and it fulfills the following conditions:

(1) The aggregate monthly quantity supplied by all parties to such an agreement as a percentage of the producer milk receipts included in the unit during the month is not less than 35 percent; and

(2) Shipments for qualification purposes shall include both transfers from supply plants to plants described in paragraph (c)(1) of this section, and deliveries made direct from the farm to plants qualified under paragraph (a) of this section.

(f) A system of supply plants may be qualified for pooling by the association of two or more supply plants operated

by one or more handlers by meeting the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant and subject to the following additional requirements:

(1) Each plant in the system is located within the marketing area, or was a pool supply plant for each of the three months immediately preceding the effective date of this paragraph so long as it continues to maintain pool status. Cooperative associations may not use shipments pursuant to § 1033.9(c) to qualify plants located outside the marketing area;

(2) A written notification to the market administrator listing the plants to be included in the system and the handler that is responsible for meeting the performance requirements of this paragraph under a marketing agreement certified to the market administrator by the designated handler and any others included in the system, and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the fifth working day following the month to which the notice applies. The listed plants included in the system shall also be in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire system for pooling, the last listed plant shall be excluded from the system, followed by the plant next-to-last on the list, and continuing in this sequence until remaining listed plants have met the minimum shipping requirements; and

(3) Each plant that qualifies as a pool plant within a system shall continue each month as a plant in the system unless the plant subsequently fails to qualify for pooling, or the responsible handler submits a written notification to the market administrator prior to the first day of the month that the plant is to be deleted from the system, or that the system is to be discontinued. In any month of March through August, a system shall not contain any plant which was not qualified under this paragraph, either individually or as a member of a system, during the previous September through February.

(g) The performance standards of paragraphs (a), (c), (d), (e) and (f) of this section may be increased or decreased by the market administrator if the market administrator finds that such adjustment is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside any Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) or (d) of this section that also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

(i) Any plant that qualifies as a pool plant in each of the immediately preceding three months pursuant to paragraph (a) of this section or the shipping percentages in paragraph (c) of this section that is unable to meet such performance standards for the current month because of unavoidable circumstances determined by the market administrator to be beyond the control of the handler operating the plant, such as a natural disaster (ice storm, wind storm, flood), fire, breakdown of equipment, or work stoppage, shall be considered to have met the minimum performance standards during the period of such unavoidable circumstances, but such relief shall not be granted for more than two consecutive months.

§ 1033.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1033.9 Handler.

See § 1000.9 of this chapter.

§ 1033.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-

handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1033.7(a) and the farm operated as a producer under § 1033.12.

§ 1033.11 [Reserved]

§ 1033.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1033.13; or

(2) Received by a handler described in § 1033.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1033.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1033.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or by a cooperative association described in § 1033.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) The equivalent of at least one day's production is caused by the handler to be physically received at a pool plant in each of the months of September through November;

(3) Of the total quantity of producer milk received during the month (including diversions but excluding the quantity of producer milk received from a handler described in § 1000.9(c)), the handler diverted to nonpool plants not more than 60 percent during the months of September through February;

(4) Diverted milk shall be priced at the location of the plant to which diverted;

(5) Any milk diverted in excess of the limits set forth in paragraph (d)(3) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to designate the dairy farmer deliveries which are ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(6) The delivery day requirements and the diversion percentages in paragraphs (d)(2) and (d)(3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1033.14 Other source milk.

See § 1000.14 of this chapter.

§ 1033.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1033.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1033.17 [Reserved]

§ 1033.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1033.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1033.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1033.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and somatic cell information as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been

producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1033.31 Payroll reports.

(a) On or before the 22nd day after the end of each month, each handler that operates a pool plant pursuant to § 1033.7 and each handler described in § 1033.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1033.73(e).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1033.32 Other reports.

In addition to the reports required pursuant to §§ 1033.30 and 1033.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1033.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1033.41 [Reserved]

§ 1033.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1033.43 General classification rules.

See § 1000.43 of this chapter.

§ 1033.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1033.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1033.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1033.51 Class I differential and price.

The Class I differential shall be the differential established for Cuyahoga County, Ohio which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Cuyahoga County, Ohio.

§ 1033.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1033.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1033.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1033.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1033.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location;

(b) Add the Class II value computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by subtracting from the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) the pounds of protein determined in § 1033.60(c)(1) and multiplying the resulting pounds of fluid carrier by a price determined by multiplying 5.7 times the other solids price and dividing the result by 91 (the resulting price, rounded to the 4th decimal place, shall be known as the fluid carrier price); and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add an adjustment for the somatic cell content of producer milk determined by multiplying the value reported pursuant to § 1033.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from plants regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1033.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1033.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers required to file reports prescribed in § 1033.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, fluid carrier, and butterfat contained in the milk for which an obligation was computed pursuant to § 1033.60 by the protein price, the fluid carrier price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1033.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1033.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1033.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1033.62 Announcement of producer prices.

On or before the 13th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The fluid carrier price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat and protein content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1033.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1033.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 15th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1033.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1033.75;

(2) An amount obtained by multiplying the total pounds of protein and butterfat contained in producer milk by the protein and butterfat prices, respectively;

(3) An amount obtained by multiplying the total hundredweight of fluid carrier contained in producer milk by the fluid carrier price computed pursuant to § 1033.60(c)(2);

(4) The total value of the somatic cell adjustment to producer milk; and

(5) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1033.60(i) by the producer price differential as adjusted pursuant to § 1033.75 for the location of the plant from which received.

§ 1033.72 Payments from the producer-settlement fund.

No later than the 16th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1033.71(b) exceeds the amount computed pursuant to § 1033.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1033.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be

made so that it is received by each producer no later than the 17th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1033.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The hundredweight of fluid carrier received times the fluid carrier price for the month;

(v) The hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Less any payment made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative associations.* On or before the day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk fluid milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the partial payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be not less than an amount computed by multiplying the respective quantities assigned to each class under § 1000.44 by the value calculated pursuant to § 1033.60(a) and location adjustments pursuant to § 1033.75, minus the amount of the payment made to the association pursuant to paragraph (a)(1) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1033.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and fluid carrier contained in the producer's milk;

(4) The average somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1033.74 [Reserved]

§ 1033.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1033.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1033.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1033.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1033.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1033.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

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See § 1000.86 of this chapter.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1124.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1124.2 Pacific Northwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Washington

All of the State of Washington.

Idaho Counties

Benewah, Bonner, Boundary, Kootenai, Latah, and Shoshone.

Oregon Counties

Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, Wheeler, and Yamhill.

§ 1124.3 Route disposition.

See § 1000.3 of this chapter.

§ 1124.4 Plant.

See § 1000.4 of this chapter.

§ 1124.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1124.6 Supply plant.

See § 1000.6 of this chapter.

§ 1124.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section. The pooling standards described in paragraphs (a), (c), (d), (e), and (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant from which during the month:

(1) Total route disposition is equal to 25 percent of more of the total quantity of bulk fluid milk products physically received at the plant; and

(2) Route disposition in the marketing area is at least 15 percent of total route disposition.

(3) For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool plant status for the plant for the month.

(c) A supply plant from which during any month not less than 20 percent of the total quantity of milk that is physically received at such plant from dairy farmers eligible to be producers pursuant to § 1124.12 (excluding milk received at such plant as diverted milk from another plant, which milk is classified in Class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product to a pool distributing plant or is a route disposition in the marketing area of fluid milk products processed and packaged at such plant;

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August, unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of milk shipments;

(2) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1000.9(c);

(3) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1124.13(c);

(4) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (g) of this section unless it has been a pool supply plant during each of the immediately preceding three months.

(d)–(f) [Reserved]

(g) The applicable shipping percentages of paragraphs (a) and (c) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such

investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(h) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area; and

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order.

§ 1124.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1124.9 Handler.

See § 1000.9 of this chapter.

§ 1124.10 Producer-handler.

Except as provided in paragraph (f) of this section, *producer-handler* means a person who operates a dairy farm and a distributing plant from which there is monthly route disposition within the marketing area in excess of 150,000 pounds during the month and who has been so designated by the market administrator upon determination that all of the requirements of this section have been met, providing that none of the conditions therein for cancellation of such designation exists.

(a) *Requirements for designation.* The producer-handler provides proof satisfactory to the market administrator that:

(1) In its capacity as a dairy farmer, the care and management of the dairy animals and other resources and facilities (designated as such pursuant to paragraph (b)(1) of this section) necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order); and

(2) In its capacity as a handler, the plant operation at which it processes and packages and from which it distributes its own milk production (designated as such pursuant to paragraph (b)(2) of this section) are under the complete and exclusive control and management of the producer-handler and are at its own enterprise and at its sole risk.

(3) The producer-handler neither receives at its designated milk production resources and facilities nor receives, handles, processes or distributes at or through any of its designated milk handling, processing or distributing resources and facilities other source milk products for reconstitution into fluid milk products, or fluid milk products derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or

(iii) nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(5) Designation of any person as a producer-handler following a cancellation of its prior designation shall be preceded by performance in accordance with paragraph (a)(1) through (4) of this section for a period of 1 month.

(b) *Designation of resources and facilities.* Designation of a person as a producer-handler shall include the determination and designation of the milk production, handling, processing and distributing resources and facilities, all of which shall be deemed to constitute an integrated operation, as follows:

(1) As milk production resources and facilities. All resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler;

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement; and

(iii) Which are directly, indirectly or partially owned, operated or controlled by any partner or stockholder of the producer-handler. However, for purposes of this paragraph, any such milk production resources and facilities which the producer-handler proves to the satisfaction of the market administrator do not constitute an actual or potential source of milk supply for the producer-handler's operation as such shall not be considered a part of the producer-handler's milk production resources and facilities.

(2) As milk handling, processing and distributing resources and facilities. All resources and facilities (including store outlets) used for handling, processing and distributing any fluid milk product:

(i) Which are directly, indirectly or partially owned, operated or controlled by the producer-handler; or

(ii) In which the producer-handler in any way has an interest, including any contractual arrangement, or with respect to which the producer-handler directly or indirectly exercises any degree of management or control.

(3) All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraph (a)(1) through (4) of this section are not continuing to be met, or under any of the following conditions:

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section is delivered in the name of another person as producer milk to another handler;

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant or acquire for route disposition fluid milk products from fully regulated plants and handlers

under any Federal order if such receipts do not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month; or

(3) The producer-handler disposes of fluid milk products using the distribution system of another handler, except for direct deliveries by the producer-handler to retail outlets or to a pool handler's plant.

(4) Cancellation of a producer-handler's status pursuant to this paragraph shall be effective on the first day of the month following the month in which the requirements were not met, or the conditions for cancellation occurred.

(d) *Public announcement.* The market administrator shall publicly announce the name, plant location and farm location(s) of persons designated as producer-handlers, of those whose designations have been canceled, and the effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.5 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of designation do not exist.

(f) *Producer-handler* shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated pursuant to § 1124.7(a) and the farm operated as a producer pursuant to § 1124.12.

§ 1124.11 Cooperative reserve supply unit.

Cooperative reserve supply unit means any cooperative association or its agent that is a handler pursuant to § 1000.9(c) that does not own or operate a plant, if such cooperative has been qualified to receive payments pursuant to § 1124.73 and has been a handler of producer milk under this or its predecessor order during each of the 12 previous months, and if a majority of the cooperative's member producers are located within 125 miles of a pool distributing plant. A cooperative reserve supply unit shall be subject to the following conditions:

(a) The cooperative shall file a request with the market administrator for cooperative reserve supply unit status at least 15 days prior to the first day of the month in which such status is desired to be effective. Once qualified as a cooperative reserve supply unit pursuant to this paragraph, such status shall continue to be effective unless the cooperative requests termination prior to the first day of the month that change of status is requested, or the cooperative fails to meet all of the conditions of this section;

(b) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within 125 miles of a majority of the cooperative's member producers in compliance with any announcement by the market administrator requesting a minimum level of shipments as further provided below:

(1) The market administrator may require such supplies of bulk fluid milk from cooperative reserve supply units whenever the market administrator finds that milk supplies for Class I use are needed for plants defined in § 1124.7(a) or (b). Before making such a finding, the market administrator shall investigate the need for such shipments either on the market administrator's own initiative or at the request of interested persons. If the market administrator's investigation shows that such shipments might be appropriate, the market administrator shall issue a notice stating that a shipping announcement is being considered and inviting data, views and arguments with respect to the proposed shipping announcement.

(2) Failure of a cooperative reserve supply unit to comply with any announced shipping requirements, including making any significant change in the unit's marketing operation that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of cooperative reserve supply unit status until such time as the unit has been a handler pursuant to § 1000.9(c) for at least 12 consecutive months.

§ 1124.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1124.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1124.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I;

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and

(5) A dairy farmer whose milk, at any time during the month, has been pooled under a State milk order.

§ 1124.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 65 percent during the months of

September through November and January, and not more than 75 percent during the months of February through August and December;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in paragraph (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk; and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments.

Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1124.14 Other source milk.

See § 1000.14 of this chapter.

§ 1124.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1124.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1124.17 [Reserved]

§ 1124.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1124.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1124.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 9th day after the end of the month, in the detail and on the prescribed forms, as follows:

(a) Each handler that operates a pool plant pursuant to § 1124.7 and each handler described in § 1000.9(c) shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, and pounds of solids-not-fat other than protein (other solids) contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1124.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1124.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1124.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1124.32 Other reports.

In addition to the reports required pursuant to §§ 1124.30 and 1124.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1124.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1124.41 [Reserved]

§ 1124.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1124.43 General classification rules.

See § 1000.43 of this chapter.

§ 1124.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1124.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1124.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1124.51 Class I differential and price.

The Class I differential shall be the differential established for King County, Washington, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for King County, Washington.

§ 1124.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1124.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1124.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1124.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in

Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price;

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(f) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(g) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(h) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(i) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicale at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(j) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1124.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1124.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1124.60 for all handlers required to file reports prescribed in § 1124.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1124.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1124.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1124.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1124.62 Announcement of producer prices.

On or before the 14th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The average butterfat, protein and other solids content of producer milk; and

(f) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payment for Milk

§ 1124.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1124.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 16th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1124.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1124.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively; and

(3) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1124.60(i) by the producer price differential as adjusted pursuant to § 1124.75 for the location of the plant from which received.

§ 1124.72 Payments from the producer-settlement fund.

No later than the 18th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1124.71(b) exceeds the amount computed pursuant to § 1124.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1124.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 18th day of the month, partial payment shall be made so that it is received by each producer on or before the last day of the month for milk received during the first 15 days of the month from the producer at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 19th day after the end of the month in an amount equal to not less than the sum of:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1124.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month;

(v) Less any payment made pursuant to paragraph (a)(1) of this section;

(vi) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(vii) Less deductions for marketing services pursuant to § 1000.86.

(b) *Payments for milk received from cooperative association members.* On or before the 2nd day prior to the dates specified in paragraphs (a)(1) and (a)(2) of this section, each handler shall pay to a cooperative association for milk from producers who market their milk through the cooperative association and who have authorized the cooperative to collect such payments on their behalf an amount equal to the sum of the individual payments otherwise payable for such producer milk pursuant to paragraphs (a)(1) and (a)(2) of this section.

(c) *Payment for milk received from cooperative association pool plants or from cooperatives as handlers pursuant to § 1000.9(c).* On or before the 2nd day prior to the dates specified in paragraph (a)(1) and (a)(2) of this section, each handler who receives fluid milk products at its plant from a cooperative association in its capacity as the operator of a pool plant or who receives milk from a cooperative association in its capacity as a handler pursuant to § 1000.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, shall pay the cooperative for such milk as follows:

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than the lowest announced class price per hundredweight for the preceding month;

(2) For the total quantity of bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant, at not less than the total value of such products received from the association's pool plants, as determined by multiplying the respective quantities assigned to each class under § 1000.44, as follows:

(i) The hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I price to be used shall be that price effective at the location of the shipping plant;

(ii) The hundredweight of Class II skim milk times $ .70;

(iii) The pounds of nonfat solids received in Class II and Class IV milk times the nonfat solids price for the month;

(iv) The pounds of butterfat received in Class II, Class III, and Class IV milk times the butterfat price for the month;

(v) The pounds of protein received in Class III milk times the protein price for the month;

(vi) The pounds of other solids received in Class III milk times the other solids price for the month; and

(vii) Add together the amounts computed in paragraphs (c)(2)(i) through (vi) of this section and from that sum deduct any payment made pursuant to paragraph (c)(1) of this section.

(3) For the total quantity of milk received during the month from a cooperative association in its capacity as a handler under § 1000.9(c) as follows:

(i) The hundredweight of producer milk received times the producer price differential as adjusted pursuant to § 1124.75;

(ii) The pounds of butterfat received times the butterfat price for the month;

(iii) The pounds of protein received times the protein price for the month;

(iv) The pounds of other solids received times the other solids price for the month; and

(v) Add together the amounts computed in paragraphs (c)(3)(i) through (iv) of this section and from that sum deduct any payment made

pursuant to paragraph (c)(1) of this section.

(d) If a handler has not received full payment from the market administrator pursuant to § 1124.72 by the payment date specified in paragraph (a), (b) or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association (with respect to receipts described in paragraph (b), prorating the underpayment to the volume of milk received from the cooperative association in proportion to the total milk received from producers by the handler), but not by more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

§ 1124.74 [Reserved]

§ 1124.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1124.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1124.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1124.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1124.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1124.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1124.85 Assessment for order administration.

See § 1000.85 of this chapter.

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See § 1000.86 of this chapter.

PART 1126—MILK IN THE SOUTHWEST MARKETING AREA

Subpart—Order Regulating Handling

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1126.85 Assessment for order administration.
1126.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1126.1 General provisions.

The terms, definitions, and provisions in part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1126.2 Southwest marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part

thereof is within any of the listed states or political subdivisions:

New Mexico and Texas

All of the States of New Mexico and Texas.

Colorado Counties

Archuleta, LaPlata, and Montezuma.

§ 1126.3 Route disposition.

See § 1000.3 of this chapter.

§ 1126.4 Plant.

See § 1000.4 of this chapter.

§ 1126.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1126.6 Supply plant.

See § 1000.6 of this chapter.

§ 1126.7 Pool plant.

Pool plant means a plant specified in paragraphs (a) through (d) of this section, or a unit of plants as specified in paragraph (e) of this section, but excluding a plant specified in paragraph (g) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section:

(a) A distributing plant from which during the month the total route disposition is equal to 25 percent or more of the total quantity of fluid milk products physically received at such plant and route disposition in the marketing area is at least 15 percent of total route distribution. Packaged fluid milk products that are transferred to a distributing plant and which are classified as Class I milk shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of determining the transferring plant's pool status under this paragraph.

(b) A distributing plant located in the marketing area at which the majority of milk received is processed into aseptically packaged fluid milk products unless there are no sales from the plant into any marketing area and the plant operator in writing requests nonpool status for the plant for the month.

(c) A supply plant from which 50 percent of the total quantity of milk that is physically received during the month from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month at least 30 percent of the producer milk of members of such cooperative association is delivered directly from farms to pool distributing plants or is transferred to such plants as a fluid milk product from the cooperative's plant.

(e) Two or more plants operated by the same handler and located within the marketing area may qualify for pool status as a unit by meeting the total and in-area route disposition requirements specified in paragraph (a) of this section and the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process only Class I or Class II products and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit, or to add or remove plants from a unit, must be filed with the market administrator prior to the first day of the month for which it is to be effective.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased up to 10 percentage points by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested parties if the request is made in writing at least 15 days prior to the date for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant as defined in § 1000.8(e);

(3) A plant qualified pursuant to paragraph (a) of this section that is located within the marketing area if the plant also meets the pooling requirements of another Federal order, and more than 50 percent of its route distribution has been in such other Federal order marketing area for 3 consecutive months;

(4) A plant qualified pursuant to paragraph (a) of this section which is not located within any Federal order marketing area that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant qualified pursuant to paragraph (a) of this section that is located in another Federal order marketing area if the plant meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) or (d) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a pool plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in writing by the handler and must be approved by the market administrator.

§ 1126.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1126.9 Handler.

See § 1000.9 of this chapter.

§ 1126.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order.

(c) Receives no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order, including such products received at a location other than the producer-handler's processing plant for distribution on routes. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1126.7(a) and the farm operated as a producer under § 1126.12.

§ 1126.11 [Reserved]

§ 1126.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1126.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1126.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and the milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

§ 1126.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of a pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator for the account of the handler operating such plant to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a producer whose dairy farm is located outside the marketing area shall not be eligible for diversion unless at least 15% of the producer's milk is physically received at a pool plant during the month;

(2) The total quantity of milk so diverted during the month by a cooperative association shall not exceed the total quantity of producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to this paragraph. The total quantity of milk so diverted during the month shall not exceed the total quantity of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1126.7(e)) during the month;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d)(2) and (3) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(5) Diverted milk shall be priced at the location of the plant to which diverted; and

(6) The delivery day requirements in paragraph (d)(1) and the diversion percentages in paragraphs (d)(2) and (3) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1126.14 Other source milk.

See § 1000.14 of this chapter.

§ 1126.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1126.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1126.17 [Reserved]

§ 1126.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1126.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1126.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 8th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) Each pool plant operator and each handler described in § 1000.9(c), shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of nonfat solids other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p) contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) or (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1126.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler that operates a pool plant pursuant to § 1126.7 and each handler described in § 1000.9(c) shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information specified in § 1126.73(e);

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1126.32 Other reports.

In addition to the reports required pursuant to §§ 1126.30 and 1126.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1126.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1126.41 [Reserved]

§ 1126.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1126.43 General classification rules.

See § 1000.43 of this chapter.

§ 1126.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1126.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1126.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1126.51 Class I differential and price.

The Class I differential shall be the differential established for Dallas County, Texas, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Dallas County, Texas.

§ 1126.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1126.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1126.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1126.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the total pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiplying the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price.

(c) Add the Class III value, computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiplying the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price.

(d) Add the Class IV value, computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price.

(e) Add an adjustment for somatic cell content of producer milk as determined by multiplying the value reported pursuant to § 1126.30(a)(1) by the percentage of the total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c).

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(5) or (c).

§ 1126.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1126.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers required to file reports prescribed in § 1126.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1126.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1126.30(a)(1);

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1126.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1126.62 Announcement of producer prices.

On or before the 13th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) The somatic cell adjustment rate;

(f) The average butterfat, nonfat solids, protein, and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1126.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1126.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 16th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1126.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1126.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1126.60(i) by the producer price differential as adjusted pursuant to § 1126.75 for the location of the plant from which received.

§ 1126.72 Payments from the producer-settlement fund.

No later than the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1126.71(b) exceeds the amount computed pursuant to § 1126.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1126.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) *Partial payment.* For each producer who has not discontinued shipments as of the 23rd day of the

month, payment shall be made so that it is received by the producer on or before the 26th day of the month for milk received during the first 15 days of the month at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer; and

(2) *Final payment.* For milk received during the month, payment shall be made so that it is received by each producer no later than the 18th day after the end of the month in an amount computed as follows:

(i) Multiply the hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1126.75;

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(iii) Multiply the pounds of protein received times the protein price for the month;

(iv) Multiply the pounds of other solids received times the other solids price for the month;

(v) Multiply the hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Add the amounts computed in paragraph (a)(2)(i) through (v) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) On or before the day prior to the dates specified for partial and final payments pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* For bulk milk/skimmed milk received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by the lowest announced class price for the preceding month;

(2) *Partial payment to a cooperative association for milk transferred from its pool plant.* For bulk milk/skimmed milk products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available, adjusted for butterfat value and plant location;

(3) *Final payment to a cooperative association for milk transferred from its pool plant.* Following the classification of bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk by the Class I skim milk price for the month applicable at the location of the shipping plant;

(ii) Multiply the pounds of Class I butterfat by the Class I butterfat price for the month applicable at the location of the shipping plant;

(iii) Multiply the hundredweight of Class II skim milk by $.70;

(iv) Multiply the pounds of nonfat solids received in Class II and Class IV milk by the nonfat solids price for the month;

(v) Multiply the hundredweight of butterfat in Class II, III, and IV milk by the butterfat price for the month;

(vi) Multiply the pounds of protein received in Class III milk by the protein price for the month;

(vii) Multiply the pounds of other solids received in Class III milk by the other solids price for the month;

(viii) Multiply the hundredweight of Class II, Class III, and Class IV milk received times the somatic cell adjustment;

(ix) Add together the amounts computed in paragraph (b)(3)(i) through (viii) of this section and from that sum deduct any payment made pursuant to paragraph (b)(2) of this section.

(4) *Final payment to a cooperative association for bulk milk received directly from producers' farms.* For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1126.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce pro rata its payments to producers or to cooperative associations pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1126.74 [Reserved]

§ 1126.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at which the milk was physically received by subtracting from the price differential the amount by which the Class I price specified in § 1126.51 exceeds the Class I price at the plant's location. If the

Class I price at the plant location exceeds the Class I price specified in § 1126.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable for other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1126.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1126.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1126.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1126.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1126.86 Deduction for marketing services.

See § 1000.86 of this chapter.

PART 1131—MILK IN ARIZONA-LAS VEGAS MARKETING AREA

Subpart—Order Regulating Handling

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Authority: 7 U.S.C. 601—674.

Subpart—Order Regulating Handling

General Provisions

§ 1131.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1131.2 Arizona-Las Vegas marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Arizona

All of the State of Arizona.

Nevada Counties

Clark.

§ 1131.3 Route disposition.

See § 1000.3 of this chapter.

§ 1131.4 Plant.

See § 1000.4 of this chapter.

§ 1131.5 Distributing Plant.

See § 1000.5 of this chapter.

§ 1131.6 Supply Plant.

See § 1000.6 of this chapter.

§ 1131.7 Pool plant.

Pool Plant means a plant or unit of plants specified in paragraphs (a) through (e) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section.

(a) A distributing plant from which during the month there is route disposition equal to 25 percent or more of the total quantity of bulk fluid milk products physically received at such plant; and route disposition in the marketing area of at least 15 percent of total route disposition. For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of qualifying the transferring plant as a pool distributing plant.

(b) A distributing plant located in the marketing area which during the month processes a majority of its receipts of milk products into aseptically packaged fluid milk products. If during the month the plant had no route disposition into any federal milk order the plant operator may request nonpool status for such plant for the month.

(c) A supply plant from which 50% or more of the total quantity of milk that is physically received at such plant from dairy farmers and handlers described in § 1000.9(c) is transferred to pool distributing plants.

(d) A plant located within the marketing area and operated by a cooperative association if, during the month, or the immediately preceding 12-month period, 35 percent or more of the producer milk of members of the association (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association

and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) or this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants operated by the same handler and located in the marketing area may qualify for pool plant status as a unit by together meeting the requirements specified in paragraph (a) of this section and subject to all of the following additional requirements:

(1) At least one of the plants in the unit must qualify as a pool plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section;

(3) A written request to form a unit must be filed by the handler with the market administrator prior to the first day of the month for which such status is desired to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) The applicable percentages in paragraphs (a), (b), (c), and (d) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested parties. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that a revision adjustment is being considered and inviting data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in § 1000.8(e).

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months.

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order or a State order providing for marketwide pooling, and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

§ 1131.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1131.9 Handler.

See § 1000.9 of this chapter.

§ 1131.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Does not distribute fluid milk products to a wholesale customer who also is serviced by a handler described in § 1000.9(a) or (d) that supplied the same product in the same-sized package with a similar label to the wholesale customer during the month;

(g) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(h) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1131.7(a) and the farm operated as a producer under § 1131.12.

§ 1131.11 [Reserved]

§ 1131.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1131.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is received at an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1131.13(d);

(3) A dairy farmer whose milk is received by diversion at a pool plant from a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I;

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order; and

(5) A dairy farmer whose milk is received at a pool plant if during the month milk from the same farm is received at a nonpool plant (except a nonpool plant that has no utilization or milk products in any class other than Class III or Class IV) other than as a diversion under this or some other Federal order.

§ 1131.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of the pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it was picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received.

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants.

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's production of such dairy farmer is physically received at a pool plant during the month;

(2) The total quantity of milk diverted by a handler in any month shall not exceed 20 percent of the total producer milk caused by the handler to be received at pool plants or diverted;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in (d)(2) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that are not to be producer milk, no milk diverted by the handler or cooperative association during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1131.12(b)(5); and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1131.14 Other source milk.

See § 1000.14 of this chapter.

§ 1131.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1131.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1131.17 [Reserved]

§ 1131.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1131.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1131.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office received the report on or before the 7th day after the end of the month, in the detail and on the forms prescribed by the market administrator, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the plant operator to other plants;

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(6) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler described in § 1131.10 shall report:

(1) The pounds of milk received from each of the handler's own-farm production units, showing separately the production of each farm unit and the number of dairy cows in production at each farm unit;

(2) Fluid milk products and bulk fluid cream products received at its plant or acquired for route disposition from pool plants, other order plants, and handlers described in § 1000.9(c);

(3) Receipts of other source milk not reported pursuant to paragraph (d)(2) of this section;

(4) Inventories at the beginning and end of the month of fluid milk products and fluid cream products; and

(5) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(e) Each handler not specified in paragraphs (a) through (d) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1131.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler

described in § 1000.9(a) and (c) shall report to the market administrator its producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) The producer's name and address;

(2) The total pounds of milk received from the producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1131.32 Other reports.

In addition to the reports required pursuant to § 1131.30 and § 1131.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1131.40 Classes of utilization.

See § 1000.40 of this chapter.

§ 1131.41 [Reserved]

§ 1131.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1131.43 General classification rules.

See § 1000.43 of this chapter.

§ 1131.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1131.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1131.50 Class prices, component prices, Class I differential and price.

Class prices and component prices are described in § 1000.50. The Class I differential shall be the differential established for Maricopa County, Arizona, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Maricopa County, Arizona.

§ 1131.51 [Reserved]

§ 1131.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1131.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1131.54 Equivalent price.

See § 1000.54 of this chapter.

Uniform Price

§ 1131.60 Handler's value of milk.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) as follows:

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii), and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding steps of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(f) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d);

(g) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1131.61 Computation of uniform price, uniform butterfat price and uniform skim milk price.

(a) For each month the market administrator shall compute the uniform price per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than two cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1131.71 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the uniform price in the following manner:

(1) Combine into one total the values computed pursuant to § 1131.60 for all handlers required to file reports prescribed in § 1131.30;

(2) Add an amount equal to the sum of the location adjustments computed pursuant to § 1131.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Add or subtract, as the case may be, to obtain an all-producer milk test of 3.5% butterfat, the value of the required pounds of butterfat times the uniform

butterfat price computed pursuant to paragraph (b) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk;

(ii) The total hundredweight for which a value is computed pursuant to § 1131.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the uniform price for milk received from producers during the month.

(b) *Uniform butterfat price*. The Uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be obtained by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices (Class I butterfat price for Class I and the butterfat price for all other classes) and dividing the sum of such values by the total pounds of such butterfat.

(c) *Uniform skim milk price*. The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be the uniform price for the month computed pursuant to paragraph (a) of this section, less the uniform butterfat price for the month computed pursuant to paragraph (b) of this section multiplied by 3.5, with the result divided by .965.

§ 1131.62 Announcement of uniform price, uniform butterfat price and uniform skim milk price.

On or before the 11th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The uniform price computed pursuant to § 1131.61 for such month;

(b) The uniform butterfat price computed pursuant to § 1131.61(b) for such month; and

(c) The uniform skim milk price computed pursuant to § 1131.61(c) for such month.

Payments for Milk

§ 1131.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1131.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 13th day after the end of the month. Payments due the market administrator shall be deemed not to have been made until the money owed has been received at the market administrator's office, or deposited into the market administrator's bank account. Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1131.60.

(b) The sum of:

(1) The value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and

(2) The value at the uniform price as adjusted pursuant to § 1131.75 applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1131.60(e).

§ 1131.72 Payments from the producer-settlement fund.

No later than the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1131.71(b) exceeds the amount computed pursuant to § 1131.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1131.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b) and (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) *Partial Payment.* For each producer who has not discontinued shipments as of the 25th day of the month, payment shall be made so that it is received by the producer on or before the 27th day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, for milk received from such producer during the first 15 days of the month at not less than 1.3 times the lowest class price for the preceding month, adjusted for plant location pursuant to § 1131.75 and proper deductions authorized in writing by the producer; and

(2) *Final Payment.* On or before the 15th day of the following month, not less than an amount computed by the sum of the following:

(i) The hundredweight of producer milk received times the uniform price for the month as adjusted pursuant to § 1131.75;

(ii) The hundredweight of producer skim milk received times the uniform skim milk price for the month;

(iii) The pounds of producer butterfat received times the uniform butterfat price for the month;

(iv) Less payments made pursuant to paragraph (a) of this section;

(v) Less deductions made for marketing service pursuant to § 1000.86;

(vi) Plus or minus adjustments for errors made in previous payments to such producer; and

(vii) Less proper deductions authorized in writing by such producer.

(b) Two days prior to the dates on which partial and final payments are due pursuant to paragraph (a) of this section, each pool plant operator shall pay a cooperative association for milk received as follows:

(1) *Partial payment to a cooperative association.* On or before the 25th day of the month each handler shall pay to a cooperative association that the market administrator determines is authorized by its members to collect payment for their milk, an amount not less than 1.3 times the lowest class price for the preceding month multiplied by the hundredweight of milk received during the first 15 days of the month from such cooperative association, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(2) *Final Payment to a cooperative association.* On or before the 13th day of the following month, each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk not less than an amount computed pursuant to paragraph (a)(2) of this section for milk received from such cooperative association during the month, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(c) If a handler has not received full payment from the market administrator pursuant to § 1131.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce pro rata his payments pursuant to such paragraphs, but by not more than the amount of such underpayment. Payments to producers shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made

because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund. In the event the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or the lawful claimant, as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month, and identity of the producer;

(2) The daily and total pounds and the total pounds of butterfat content of producer milk;

(3) The minimum rate at which payment to the producer is required pursuant to this order;

(4) The rate used in making payments if the rate is other than the applicable minimum rate;

(5) The amount, rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to the producer.

§ 1131.74 [Reserved]

§ 1131.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was first physically received by subtracting from the price the amount by which the Class I price specified in § 1131.50 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1131.50, the difference shall be added to the uniform price; and

(b) The uniform price applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted uniform price shall not be less than the lowest announced class price.

§ 1131.76 Payments by handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1131.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1131.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1131.85 Assessment for order administration.

See § 1000.85 of this chapter.

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See § 1000.86 of this chapter.

PART 1134—MILK IN THE WESTERN MARKETING AREA

Subpart—Order Regulating Handling

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Administrative Assessment and Marketing Service Deduction

1134.85 Assessment for order administration.
1134.86 Deduction for marketing services.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter apply to and are hereby made a part of this order.

Definitions

§ 1134.2 Western marketing area.

The marketing area means all territory within the bounds of the following states and political subdivisions, including all piers, docks and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed states or political subdivisions:

Utah

All of the State of Utah.

Colorado Counties

Delta, Garfield, Mesa, and Montrose.

Idaho Counties

Ada, Adams, Bannock, Bear Lake, Bingham, Blaine, Boise, Bonneville, Camas, Canyon, Caribou, Cassia, Elmore, Franklin, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Twin Falls, Valley, and Washington.

Nevada Counties

Elko, Lincoln, and White Pine.

Oregon Counties

Baker, Grant, Harney, Malheur, and Union.

Wyoming Counties

Lincoln and Uinta.

§ 1134.3 Route disposition.

See § 1000.3 of this chapter.

§ 1134.4 Plant.

See § 1000.4 of this chapter.

§ 1134.5 Distributing plant.

See § 1000.5 of this chapter.

§ 1134.6 Supply plant.

See § 1000.6 of this chapter.

§ 1134.7 Pool plant.

Pool Plant means a plant or unit of plants specified in paragraphs (a) through (e) of this section. The pooling standards described in paragraphs (a), (c), and (d) of this section are subject to modification pursuant to paragraph (f) of this section.

(a) A distributing plant from which during the month there is route disposition equal to 25 percent or more of the total quantity of bulk fluid milk products physically received at such plant and there is route disposition in the marketing area of at least 15 percent of total route disposition. For purposes of this section, packaged fluid milk products that are transferred to a distributing plant shall be considered as route disposition from the transferring plant, rather than the receiving plant, for the single purpose of determining the pool status of the transferring plant under this section.

(b) A distributing plant located in the marketing area which during the month processes a majority of its receipts of milk products into aseptically packaged fluid milk products. If during the month the plant had no route disposition into any federal milk order the plant operator may request nonpool status for such plant for the month.

(c) A supply plant from which during the month the quantity of bulk fluid milk products transferred or diverted to plants described in paragraph (a) or (b) of this section is 35 percent of more of the total Grade A milk received at the plant from dairy farmers (except dairy farmers described in § 1134.12(b)) and handlers described in § 1000.9(c), including milk diverted by the plant operator, subject to the following conditions:

(1) A supply plant that has qualified as a pool plant during each of the immediately preceding months of September through February shall continue to so qualify in each of the following months of March through August unless the plant operator files a written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request. A plant withdrawn from pool supply plant status may not be reinstated for any subsequent month of the March through July period unless it qualifies as a pool plant on the basis of milk shipments;

(2) A pool plant operator may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1134.13(c);

(3) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to paragraph (f) of this section unless it has been a pool supply plant during each of the immediately preceding three months.

(d) A milk manufacturing plant located within the marketing area that is operated by a cooperative association if, during the month or the immediately preceding 12-month period ending with the current month, 35% or more of such cooperative's member producer milk (and any producer milk of nonmembers and members of another cooperative association which may be marketed by the cooperative association) is physically received in the form of bulk fluid milk products at plants specified in paragraph (a) or (b) of this section either directly from farms or by transfer from supply plants operated by the cooperative association and from plants of the cooperative association for which pool plant status has been requested under this paragraph subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under comparable provisions of another Federal order; and

(2) The plant is approved by a duly constituted regulatory agency for the handling of milk approved for fluid consumption in the marketing area.

(e) Two or more plants located in the marketing area and operated by the same handler may qualify for pool plant status as a unit by together meeting the requirements specified in paragraph (a) of this section and subject to the following additional requirements:

(1) At least one of the plants in the unit must individually qualify as a pool plant pursuant to paragraph (a) of this section.

(2) Other plants in the unit must process Class I or Class II products, using 50 percent or more of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator in Class I or Class II products, and must be located in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant included in the unit pursuant to paragraph (e)(1) of this section; and

(3) A written request to form a unit must be filed by the handler with the market administrator prior to the first day of the month for which such status is to be effective. The unit shall continue from month to month thereafter without further notification. The handler shall notify the market administrator in writing prior to the first day of any month for which termination or any change of the unit is desired.

(f) The applicable percentages in paragraphs (a), (c), and (d) of this section may be increased or decreased by the market administrator if found necessary to obtain needed shipments or to prevent uneconomic shipments. Before making a finding that a change is necessary, the market administrator shall investigate the need for revision, either on the market administrator's own initiative or at the request of interested persons. If such investigation shows that a revision might be appropriate, a notice shall be issued stating that such a revision is being considered and inviting written data, views, and arguments. If the market administrator determines that an adjustment to the shipping percentages is necessary, the market administrator shall notify the industry within one day of the effective date of such adjustment.

(g) The term pool plant shall not apply to the following plants:

(1) A producer-handler as defined under any Federal order;

(2) An exempt plant as defined in 1000.8(e).

(3) A plant located within the marketing area and qualified pursuant to paragraph (a) or (e) of this section which meets the pooling requirements of another Federal order, and from which more than 50 percent of its route disposition has been in the other Federal order marketing area for three consecutive months;

(4) A plant located outside the marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of another Federal order and has had greater sales in such other Federal order's marketing area for 3 consecutive months;

(5) A plant located in another Federal order marketing area and qualified pursuant to paragraph (a) of this section that meets the pooling requirements of such other Federal order and does not have a majority of its route distribution in this marketing area for 3 consecutive months or if the plant is required to be regulated under such other Federal order without regard to its route disposition in any other Federal order marketing area;

(6) A plant qualified pursuant to paragraph (c) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made to plants regulated under the other Federal order than are made to plants regulated under this order, or the plant

has automatic pooling status under the other Federal order; and

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a regulated plant as a nonpool plant must be requested in advance and in writing by the handler and must be approved by the market administrator.

§ 1134.8 Nonpool plant.

See § 1000.8 of this chapter.

§ 1134.9 Handler.

See § 1000.9 of this chapter.

§ 1134.10 Producer-handler.

Except as provided in paragraph (g) of this section, *producer-handler* means a person who:

(a) Operates a dairy farm and a distributing plant from which there is monthly route disposition in excess of 150,000 pounds during the month;

(b) Receives no fluid milk products from sources other than own farm production, pool handlers, and plants fully regulated under another Federal order;

(c) Receives at its plant or acquires for route disposition no more than 150,000 pounds of fluid milk products from handlers fully regulated under any Federal order. This limitation shall not apply if the producer-handler's own farm production is less than 150,000 pounds during the month.

(d) Disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from own farm production or pool handlers;

(e) Disposes of no fluid milk products using the distribution system of another handler except for direct deliveries to retail outlets or to a pool handler's plant;

(f) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) and the processing, packaging, and distribution operations are the producer-handler's own enterprise and at its own risk; and

(g) Producer-handler shall not include any producer who also operates a distributing plant if the producer-handler so requests that the two be operated as separate entities with the distributing plant regulated under § 1134.7(a) and the farm operated as a producer under § 1134.12.

§ 1134.11 Proprietary bulk tank handler.

(a) Any person, except a cooperative association, with respect to milk that it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such person and which is delivered during the month for the account of such person to the pool plant of another handler or diverted pursuant to § 1134.13, subject to the following conditions:

(1) Such person (who, if qualified pursuant to this paragraph, shall be known as a *proprietary bulk tank handler*) must operate a plant located in the marketing area at which milk is processed only into Class II, Class III, or Class IV products; and

(2) Prior to operating as a handler pursuant to this paragraph, such person must submit to the marker administrator a statement signed by the applicant and the operator of the pool plant to which the milk will be delivered specifying that the applicant will be the responsible handler for the milk.

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk approved by a duly constituted regulatory agency for fluid consumption as Grade A milk and whose milk (or components of milk) is:

(1) Received at a pool plant directly from the producer or diverted by the plant operator in accordance with § 1134.13; or

(2) Received by a handler described in § 1000.9(c).

(b) Producer shall not include:

(1) A producer-handler as defined in any Federal order;

(2) A dairy farmer whose milk is delivered to an exempt plant, excluding producer milk diverted to the exempt plant pursuant to § 1134.13(d);

(3) A dairy farmer whose milk is diverted to a pool plant by a handler regulated under another Federal order if the other Federal order designates the dairy farmer as a producer under that order and that milk is allocated by request to a utilization other than Class I; and

(4) A dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order with respect to that portion of the milk so diverted that is assigned to Class I under the provisions of such other order.

(5) A dairy farmer whose milk was received at a pool plant if during the month milk from the same farm was received at a nonpool plant (except a nonpool plant that has no utilization of milk products in any Class other than Class III or Class IV) other than as a diversion under this or some other Federal order.

§ 1134.13 Producer milk.

Producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer, by a handler described in § 1000.9(c), or by a handler described in § 1134.11. Any milk picked up from the producer's farm tank in a tank truck under the control of the operator of the pool plant or a handler described in § 1000.9(c) but which is not received at a plant until the following month shall be considered as having been received by the handler during the month in which it was picked up at the producer's farm. All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) or in § 1134.11 in excess of the quantity delivered to pool plants.

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant, a cooperative association described in § 1000.9(c), or a proprietary bulk tank handler described in § 1134.11, to a nonpool plant, subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's milk production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under this order (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) Of the quantity of producer milk received during the month (including diversions) the handler diverts to nonpool plants not more than 80 percent;

(3) Diverted milk shall be priced at the location of the plant to which diverted;

(4) Any milk diverted in excess of the limits prescribed in (d)(2) of this section shall not be producer milk. If the diverting handler, cooperative association, or proprietary bulk tank handler fails to designate the dairy farmers' deliveries that are not to be

producer milk, no milk diverted by the handler, cooperative association, or proprietary bulk tank handler during the month to a nonpool plant shall be producer milk. In the event some of the milk of any producer is determined not to be producer milk pursuant to this paragraph, other milk delivered by such producer as producer milk during the month will not be subject to § 1134.12(b)(5); and

(5) The applicable diversion limits in paragraph (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

§ 1134.14 Other source milk.

See § 1000.14 of this chapter.

§ 1134.15 Fluid milk product.

See § 1000.15 of this chapter.

§ 1134.16 Fluid cream product.

See § 1000.16 of this chapter.

§ 1134.17 [Reserved]

§ 1134.18 Cooperative association.

See § 1000.18 of this chapter.

§ 1134.19 Commercial food processing establishment.

See § 1000.19 of this chapter.

Handler Reports

§ 1134.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator receives the report on or before the 7th day after the end of each month, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler that operates a pool plant pursuant to § 1134.7, and each handler described in § 1000.9(c) or in § 1134.11, shall report for each of its operations the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, nd pounds of solids-not-fat other than protein (other solids), contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the handler; and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk; and

(iii) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, and other nonfat solids, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 21st day after the end of each month, each handler that operates a pool plant pursuant to § 1134.7 and each handler described in § 1000.9(c) and in § 1134.11 shall report to the market administrator its producer payroll for the month, in the detail prescribed by the market administrator, showing for each producer the information described in § 1134.73(f).

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1000.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

In addition to the reports required pursuant to §§ 1134.30 and 1134.31, each handler shall report any information the market administrator deems necessary to verify or establish each handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

See § 1134.40 of this chapter.

§ 1134.41 [Reserved]

§ 1134.42 Classification of transfers and diversions.

See § 1000.42 of this chapter.

§ 1134.43 General classification rules.

See § 1000.43 of this chapter.

§ 1134.44 Classification of producer milk.

See § 1000.44 of this chapter.

§ 1134.45 Market administrator's reports and announcements concerning classification.

See § 1000.45 of this chapter.

Class Prices

§ 1134.50 Class prices and component prices.

See § 1000.50 of this chapter.

§ 1134.51 Class I differential and price.

The Class I differential shall be the differential established at Salt Lake County, Utah, which is reported in § 1000.52. The Class I price shall be the price computed pursuant to § 1000.50(a) for Salt Lake County, Utah.

§ 1134.52 Adjusted Class I differentials.

See § 1000.52 of this chapter.

§ 1134.53 Announcement of class prices and component prices.

See § 1000.53 of this chapter.

§ 1134.54 Equivalent price.

See § 1000.54 of this chapter.

Producer Price Differential

§ 1134.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of its pool plants, and of each handler described in § 1000.9(c) and § 1134.11 as follows:

(a) Class I value.

(1) Multiply the hundredweight of skim milk in Class I as determined pursuant to § 1000.44(a) by the Class I skim milk price applicable at the handler's location; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I as determined pursuant to § 1000.44(b) by the Class I butterfat price applicable at the handler's location.

(b) Add the Class II value, computed as follows:

(1) Multiply the hundredweight of skim milk in Class II as determined pursuant to § 1000.44(a) by 70 cents;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class II as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class II as determined pursuant to § 1000.44(b) by the butterfat price;

(c) Add the Class III value computed as follows:

(1) Multiply the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average protein content of producer skim milk received by the handler, and multiply the resulting pounds of protein by the protein price;

(2) Add an amount obtained by multiplying the pounds of skim milk in Class III as determined pursuant to § 1000.44(a) by the average other solids content of producer skim milk received by the handler, and multiply the resulting pounds of other solids by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III as determined pursuant to § 1000.44(b) by the butterfat price;

(d) Add the Class IV value computed as follows:

(1) Multiply the pounds of skim milk in Class IV as determined pursuant to § 1000.44(a) by the average nonfat solids content of producer skim milk received by the handler, and multiply the resulting pounds of nonfat solids by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV as determined pursuant to § 1000.44(b) by the butterfat price;

(e) [Reserved]

(f) Add the amounts obtained from multiplying the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.43(b)(2) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(g) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (iii) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(i) Add the amount obtained from multiplying the difference between the Class I price and the Class III price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(j) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I pursuant to § 1000.43(d); and

(k) Exclude, for pricing purposes under this section, receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1000.76(a)(5) or (c).

§ 1134.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. If the unreserved balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made payments required pursuant to § 1134.71 for the preceding month shall not be included in the computation of the producer price differential. The report of such handler shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers required to file reports prescribed in § 1134.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1134.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the sum of the location adjustments computed pursuant to § 1134.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the *producer price differential* for the month.

§ 1134.62 Announcement of producer prices.

On or before the 12th day after the end of each month, the market administrator shall announce publicly the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The other solids price;

(d) The butterfat price;

(e) [Reserved]

(f) The average butterfat, protein and other solids content of producer milk; and

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

Payments for Milk

§ 1134.70 Producer-settlement fund.

See § 1000.70 of this chapter.

§ 1134.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 14th day after the end of the month. Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1134.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1134.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) [Reserved]

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1134.60(i) by the producer price differential as adjusted pursuant to § 1134.75 for the location of the plant from which received.

§ 1134.72 Payments from the producer-settlement fund.

No later than the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(b) exceeds the amount computed pursuant to § 1134.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) and (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) *Partial Payment.* On or before the 25th day of each month to each producer an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(2) *Final Payment.* On or before the 17th day of the following month, not less than an amount computed by the sum of the following:

(i) The hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1134.75;

(ii) The pounds of butterfat in producer milk received times the butterfat price for the month;

(iii) The pounds of protein in producer milk received times the protein price for the month;

(iv) The pounds of other solids in producer milk received times the other solids price for the month;

(v) [Reserved]

(vi) Less any payments made pursuant to paragraph (a)(1) of this section;

(vii) Less proper deductions authorized in writing by such producer and plus or minus adjustments for errors in previous payments to such producer; and

(viii) Less deductions made for marketing service pursuant to § 1000.86;

(b) *Partial payment to a cooperative association.* On or before the 24th day of each month each handler shall pay to a cooperative association, which the market administrator determines is authorized by its members to collect payment for their milk, an amount not less than 1.2 times the lowest class price for the preceding month multiplied by the hundredweight of milk received during the first 15 days of the month from such cooperative association, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(c) *Final Payment to a cooperative association.* On or before the 16th day of the following month, each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk not less than an amount computed pursuant to paragraph (a)(2) of this section for milk received from such cooperative association during the month, including the milk of producers not members of such cooperative association who the market administrator determines have authorized the cooperative association to collect payment for their milk;

(d) If a handler has not received full payment from the market administrator pursuant to § 1134.72 by the payment date specified in paragraph (a), (b), or (c) of this section, the handler may reduce pro rata its payments to producers or to the cooperative association by not more than the amount of such underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(e) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer settlement fund, and in the event the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant, as the case may be.

(f) In making payments to producers pursuant to this section, each handler shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in a form that may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and payroll number of the producer;

(2) The daily and total pounds, and the month and dates such milk was received from that producer;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) [Reserved];

(5) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pounds of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association.

§ 1134.74 [Reserved]

§ 1134.75 Plant location adjustments for producer milk and nonpool milk.

(a) The producer price differential for producer milk shall be adjusted according to the location of the plant at

which the milk was first physically received by subtracting from the price differential the amount by which the Class I price specified in § 1134.51 exceeds the Class I price at the plant's location. If the Class I price at the plant location exceeds the Class I price specified in § 1134.51, the difference shall be added to the producer price differential; and

(b) The producer price differential applicable to other source milk shall be adjusted following the procedure specified in paragraph (a) of this section, except that the adjusted producer price differential shall not be less than zero.

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

See § 1000.76 of this chapter.

§ 1134.77 Adjustment of accounts.

See § 1000.77 of this chapter.

§ 1134.78 Charges on overdue accounts.

See § 1000.78 of this chapter.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

See § 1000.85 of this chapter.

§ 1134.86 Deduction for marketing services.

See § 1000.86 of this chapter.

Dated: January 21, 1998.

Michael V. Dunn,

Assistant Secretary for Marketing and Regulatory Programs.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A: Summary of Preliminary Suggested Order Consolidation Report

Ten marketing areas are suggested in the preliminary consolidation report. As a means of determining where interrelationships among the current marketing areas are strongest, data relating to the receipts and distribution of fluid milk products by distributing plants were gathered for all known distributing plants located in the 47 contiguous States, not including the State of California, for the month of October 1995. At this time, California is not included as a suggested order area. The 1996 Farm Bill allows for the inclusion of a California Federal milk order if California producers petition for and approve an order. If a California order were included in the suggested Federal order structure at a later time, it would encompass the entire State and would include no area outside the State of California. Although interest in a Federal order has been expressed by some California producer groups, no definite action has been taken.

An analysis of the distribution and procurement patterns of the fluid processing plants, along with other factors, was used to determine which order areas were most closely related. Proposals submitted by the public were also taken into account. The primary criteria used in determining which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation were:

1. Overlapping route disposition.
2. Overlapping areas of milk supply.
3. Number of handlers within a market.
4. Natural boundaries.
5. Cooperative association service areas.
6. Features common to existing orders, such as similar multiple component pricing payment plans.
7. Milk utilization in common dairy products.

The requirement to consolidate existing marketing areas does not specify expansion of regulation to previously nonfederally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. However, a number of the current marketing areas enclose unregulated areas. These ''pockets'' are included in the suggested merged marketing areas only if their inclusion does not change the current regulatory status of a plant. In the process of consolidating marketing areas, some handlers who currently are partially regulated may become fully regulated because their sales in a combined marketing area will likely meet the pooling standards of a suggested consolidated order. Further expansion of the marketing areas, which would result in regulating additional handlers, is an issue that should be addressed by the industry. Proposals to take such action should be accompanied by supporting data, views, and arguments concerning the need and basis for any such expansion.

The 10 suggested consolidated marketing areas and the major reasons for consolidation are:

1. Northeast

Current marketing areas of the New England, New York-New Jersey, and Middle Atlantic Federal milk orders. Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. The orders are also surrounded by nonfederally regulated territory. A further measure of association is evident by industry efforts to study and pursue consolidation of the three Federal orders, as well as some of the nonfederally regulated territory, prior to the 1996 Farm Bill.

2. Appalachian

Current marketing areas of the Carolina and Tennessee Valley Federal milk orders, and a portion of the Louisville-Lexington-Evansville Federal milk order. Overlapping sales and procurement areas between these marketing areas are major factors for supporting such a consolidation.

3. Florida

Current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders. Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

4. Southeast

Current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area, 15 currently unregulated Kentucky counties, and 2 currently unregulated northeast Texas counties. Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and the Kentucky and Texas counties suggested for inclusion. There is minimal sales area overlap with handlers regulated under other Federal orders.

5. Mideast

Current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, and Indiana Federal milk orders, plus most of the current marketing area of the Louisville-Lexington-Evansville Federal milk order, Zone 2 of the Michigan Upper Peninsula Federal milk order, and 12 counties of the Southern Illinois-Eastern Missouri Federal milk order. Major criteria suggesting this consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas suggested to be consolidated. With the consolidation, most route disposition by handlers located within the suggested Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area suggested to be included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

6. Upper Midwest

Current marketing areas of the Chicago Regional and Upper Midwest Federal milk orders, plus Zones I and I(a) of the Michigan Upper Peninsula Federal milk order and seven unregulated or partly unregulated Wisconsin counties. Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders, overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order, natural boundary limitations, and the prevalence of cheese as a major manufactured product for the substantial reserve milk supplies that exceed fluid milk needs.

7. Central

Current marketing areas of the Southern Illinois-Eastern Missouri (less 12 counties included in the suggested Mideast marketing area), Central Illinois, Greater Kansas City, Nebraska-Western Iowa (less 11 currently-regulated counties suggested to be unregulated), Eastern South Dakota, Iowa, Southwest Plains, and Eastern Colorado Federal milk orders, plus 63 currently-unregulated counties in seven of the states. Major criteria suggesting this consolidation include the overlapping procurement and route disposition between the current orders. The suggested consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The suggested consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, most of the producers in these areas share membership in several common cooperatives.

8. Southwest

Current marketing areas of the Texas, New Mexico-West Texas, and Central Arizona Federal milk orders. Major criteria suggesting consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for all three orders. In addition, there is some route disposition by Central Arizona handlers into the New Mexico-West Texas marketing area, and the Central Arizona market contains a small number of handlers.

9. Western

Current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders. Major criteria suggesting consolidation include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also share a similar multiple component pricing plan. The Western Colorado order is included because it is a small market where data cannot be released without revealing confidential information unless combined with the adjacent Great Basin order.

10. Pacific Northwest

Current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

Following is a table summarizing relevant data for the consolidated markets:

CONSOLIDATED MARKET SUMMARY

[Based on October 1995 data]

Consolidated order	Total producer milk (1,000 lbs.)	Number of fully regulated distributing plants	Combined class I utilization (percent)
Northeast	1,934,833	85	46.7
Appalachian	320,198	25	82.5
Florida	200,397	18	88.3
Southeast	443,921	38	84.3
Mideast	[1] 1,140,952	68	57.8
Upper Midwest	[2] 1,046,539	[4] 27	34.2
Central	[3] 932,929	42	50.6
Southwest	861,307	31	48.3
Western	304,793	14	[5] 31.7
Pacific Northwest	501,257	23	36.3
Total	7,687,126	371	n/a

[1] Producer milk for F.O. 44 is included. Producer milk for a F.O. 32 handler who would be pooled under the suggested Mideast market is included in the Central consolidated market.

[2] Producer milk for F.O. 30 and F.O. 68 only.

[3] Producer milk for a F.O. 32 handler that would be in the Mideast consolidated market is included.

[4] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 15.3% combined Class I utilization.

[5] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 21.8% combined Class I utilization.

Appendix B: Summary of Pricing Options

Several options for modifying Class I pricing under the Federal milk market order program, representing a spectrum of views, are discussed in this summary report. The accompanying technical report summarizes all of the comments and proposals received by the Department related to Class I pricing under Federal orders.

Most Class I pricing concepts that were suggested would continue to employ a market-driven basic formula price (BFP) with an added differential. Differentials are a composite of one or more of the following elements: (1) A fixed component, (2) a location adjustment, (3) an adjustor relating to utilization, or (4) the cost of balancing the market. Based on the pricing concepts received, the following options were developed:

Option 1A: Location-Specific Differential

$1.60 per hundredweight fixed differential for three surplus regions (Upper Midwest, West, and Southwest) within a nine-zone national price surface, plus for the other six zones an added component that reflects regional differences in the value of fluid and manufacturing milk.

Option 1B: Modified Location-Specific Differential Option

$1.00 per hundredweight fixed differential plus an added component that reflects the cost of moving bulk milk to deficit markets.

Option 2: Relative Use Differential

$1.60 per hundredweight fixed differential plus a formula-based differential driven by the ratio of Class I milk to all other uses of milk.

Option 3A: Flat Differential Option

$1.60 per hundredweight flat differential, uniformly applied across all orders to generate an identical minimum Class I price.

Option 3B: Flat Differential Modified by Class I Use—

$2.00 per hundredweight differential in markets where Class I utilization is less than 70 percent on an annual basis and a differential equal to $2.00 + $0.075(Class I use %—70%) in markets where the Class I utilization is equal to or exceeds 70 percent.

Option 4: Demand-Based Differential—

$1.00 per hundredweight fixed differential plus a transportation credit based on location of reserve milk supplies.

Estimated Class I differentials are presented for each option to provide a preliminary basis for determining impacts that may occur. The report provides estimated differentials for the suggested 10

consolidated orders and for the current 32 Federal milk marketing orders.

The report concludes by soliciting comments on the options presented and poses a series of questions for the public to address when submitting comments back to the Department on the issue of Class I pricing.

Appendix C: Summary of Classification Report

The Agricultural Marketing Agreement Act of 1937 provides that all milk should be classified ''in accordance with the form in which or the purpose for which it is used.'' This has resulted in a system of uniform classification provisions that places milk used for fluid purposes in the highest use class, Class I, and other manufactured products in lower classes, Classes II, III, and III–A.

Currently products packaged for fluid consumption such as whole milk, skim milk, buttermilk, and flavored milk drinks are classified as Class I products. Class II products include ice cream, yogurt, cottage cheese, and cream. Class III and Class III–A products include cheese, butter, and nonfat dry milk.

Among the changes in classification recommended in the technical report are the following:

- Eggnog would be reclassified from Class II to Class I.
- Any fluid beverage having less than 6.5 percent nonfat milk solids would be reclassified from Class II to Class I.
- Cream cheese would be reclassified from Class III to Class II.

The technical report recommends changing the classification of milk used in nonfat dry milk from Class III–A to Class III. The report recommends that if Class III–A pricing is not eliminated, the following four alternatives be considered:

- Place a floor beneath the Class III–A price;
- Restrict III–A pricing to certain months or to certain markets;
- Provide an up-charge for nonfat dry milk used in higher-valued products; or
- Provide for a combination of these options.

Maintaining the classification of milk used to make nonfat dry milk in Class III–A is also an option, although not discussed in the technical report.

The technical report addresses Class III–A pricing because of industry concerns about the substitution of nonfat dry milk for fluid milk in Class II and III uses when the Class III–A price is substantially below the Class III price.

Appendix D: Summary of Identical Provisions Report

Federal milk marketing orders contain numerous provisions that establish the regulations for the operation of the orders. Over the years, the orders have been individualized to account for specific situations associated with a given marketing area. However, there are several provisions within the orders that are similar or that could be similar and still provide for efficient and orderly marketing of milk.

The technical report does the following:

- Suggests a model for establishing the consolidated orders and provides suggestions on the order language that can be adopted uniformly throughout all orders.
- Reviewed, simplified, modified, and eliminated differences in order provisions that:
- Define various terms used in the orders
- Establish regulatory standards for plants and handlers
- Provide for uniform reporting dates of milk receipts and utilization
- Provide for uniform dates for payment of milk
- Provide for computation of a uniform price
- Reduces performance standards to make it easier for producers to associate with a market.

At this time, it is impossible to determine if there would be any financial impact on producers, handlers, or consumers as a result of any of these suggested provision revisions. It is projected that there will be little impact on the overall program because the changes primarily provide for uniformity. There may be minimal impact on selected individual producers, handlers, or consumers, but this cannot be determined until more specific information is developed regarding the orders (i.e., marketing area and pricing). The suggested identical provisions will be applied to each of the suggested consolidated orders and determinations will be based on the marketing conditions of the given region.

One suggested change in the report that may stimulate some debate is the definition of a producer-handler. The technical report suggests applying the most liberal standard to the producer-handler definition to prevent any producer-handler from becoming regulated as a result of milk order reform. Producer-handlers have been exempt from full regulation because they assume the full risks associated with being a producer and a distributor of milk produced with only occasional and small volumes of milk being purchased from other dairy farmers.

Appendix E: Summary of Basic Formula Price Report

The basic formula price (BFP) is used to determine Federal order prices for milk used in manufactured products and, with the addition of differentials, to determine minimum Class I and II prices for milk pooled under the Federal orders. The current BFP is based on a survey of prices paid for manufacturing grade (Grade B) milk by plants in Minnesota and Wisconsin, updated by month-to-month changes in commodity prices (especially cheese). The continuing decline in the volume of Grade B milk produced in the upper Midwest and nationally is an indication that, in the near future, the M–W price series may not be statistically reliable as an indicator of the value of milk used in manufactured products.

The BFP Committee has received input provided during a public BFP Forum held in Madison, Wisconsin, and from over 200 written public comments, and conducted a survey of transaction prices for manufactured dairy products. The Committee also has sponsored analysis by a group of university researchers, and conducted extensive study and analysis of its own. The BFP Committee evaluated alternatives to the BFP against the criteria of stability, predictability, simplicity, uniformity, transparency, sound economics and reduced regulation. Options identified by the Committee were grouped into the following categories:

Options Considered: Economic formulas, Product price and component formulas, Futures markets, California pricing, Cost of production, Informal rulemaking, Competitive pay price, Pooling differentials only.

At this time, the Committee has identified four options for further discussion and debate:

- A four-class, multiple component pricing plan to price butterfat, protein and lactose used in cheese (Class III), and butterfat and nonfat solids used in butter/powder (Class IV).
- A three-class, multiple component pricing plan to price protein used in cheese, butterfat used in butter, and other nonfat solids used in powder (Class III—one manufacturing class).
- A product price formula computed from the butter, powder and cheese shares of U.S. production, using seasonal product yields and a California cost-based make allowance; and
- A competitive pay price series using a national weighted average price paid for Grade A milk used in manufactured products, updated by a product price formula. The price series would contain an adjuster to attempt to remove the effect of current regulation and to reduce it to a level more comparable to the current BFP.

As a basis for Class I prices, the BFP could be made more stable by using an economic formula or using a moving average of a manufacturing price. Class II prices could be based on components or continue to include a differential from the manufacturing price level.

The BFP Committee is continuing to study and analyze alternatives in response to public comments.

Appendix F: Summary of Revised Preliminary Suggested Order Consolidation Report

The ten marketing areas suggested in the initial preliminary consolidation report have increased to eleven and been modified to some extent in this revised preliminary report. Several of the initially suggested marketing areas were the subjects of numerous comments containing information that indicated that the boundaries of those areas should be re-evaluated. In addition, shifts in regulation and distributing plant distribution areas were known to have occurred. As a result, more detailed and updated (January 1997) data was obtained relating to the receipts of producer milk and distribution of fluid milk products by distributing plants in a number of the initially-suggested order marketing areas. As a result, changes were made in the suggested marketing areas of the Northeast, Appalachian, Southeast, Mideast, Upper Midwest, Central, Southwest, and Western

regions, and a new Arizona-Las Vegas area was added.

An analysis of the distribution and procurement patterns of the fluid processing plants, along with other factors, was used to determine which order areas were most closely related. Proposals submitted by the public were also taken into account. The primary criteria used in determining which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation continued to be:

1. Overlapping route disposition.
2. Overlapping areas of milk supply.
3. Number of handlers within a market.
4. Natural boundaries.
5. Cooperative association service areas.
6. Features common to existing orders, such as similar multiple component pricing plans.
7. Milk utilization in common dairy products.

In the initial preliminary report, it was observed that the Farm Bill requirement to consolidate existing marketing areas does not specify expansion of regulation to previously non-Federally regulated areas where such expansion would have the effect of regulating handlers not currently regulated. This revised preliminary report suggests that some currently non-Federally regulated area be added on the basis of comments supported by data, views and arguments filed by interested persons. Specifically, unregulated areas contiguous to the initial suggested consolidated Northeast and Mideast marketing areas are suggested for inclusion in those suggested order areas. Some handlers currently not subject to full Federal order regulation would become pool plants if the suggested areas are added. Handlers who would be affected will be notified of the possible change in their status, and encouraged to comment.

As in the initial preliminary report, ''pockets'' of unregulated areas enclosed in the current marketing areas are included in the suggested consolidated marketing areas if their inclusion does not change the current regulatory status of a plant. However, in the process of consolidating marketing areas, some handlers who currently are partially regulated may become fully regulated because their sales in a combined marketing area will meet the pooling standards of a suggested consolidated order area. As a result, this report suggests that some unregulated areas contiguous to currently-regulated areas be added to Federal order areas where additional handlers would be affected.

The 11 modified suggested marketing areas (with those modified from the initial preliminary report, and the modifications, marked by *) and the major reasons for consolidation are:

***1. Northeast**

Current marketing areas of the New England, New York-New Jersey, and Middle Atlantic Federal milk orders, **with the addition of:* contiguous unregulated areas of New Hampshire, Vermont and New York; the western non-Federally regulated portion of Massachusetts, the Western New York State order area, and Pennsylvania Milk Marketing Board Areas 2 and 3 in northeastern Pennsylvania.

Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. In several cases, handlers who would become regulated because their total sales in the combined areas would meet pooling standards are located in areas where they compete with handlers who would not be similarly regulated. Handler equity suggests that these handlers, too, should become regulated. Another important measure of association is evidenced by industry efforts to study and pursue consolidation of the three Federal orders, as well as some of the nonfederally regulated territory, prior to the 1996 Farm Bill.

Sixteen additional distributing plants would be pooled as a result of the expansion of the consolidated area. Nine of these plants currently are partially regulated.

***2. Appalachian**

Current marketing areas of the Carolina and Tennessee Valley Federal milk orders, **with the addition of:* all of the Louisville-Lexington-Evansville Federal order area (except one county—in the suggested Southeast area) and 26 currently-unregulated counties in Indiana and Kentucky.

More detailed and updated data showing overlapping sales and procurement areas between these marketing areas are major factors for supporting such a consolidation.

3. Florida

Current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders.

Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

***4. Southeast**

Current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area, plus 15 currently-unregulated Kentucky counties, **minus* 2 currently-unregulated counties in northeast Texas (in the suggested Southwest area).

Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and this county. There is minimal sales area overlap with handlers regulated under other Federal orders. Collection of additional data showed greater disposition in the two Texas counties from Texas handlers than from Southeast handlers. There are no handlers in these two counties that would be affected.

***5. Mideast**

Current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, and Indiana Federal milk orders, plus Zone 2 of the Michigan Upper Peninsula Federal milk order, and currently-unregulated counties in Michigan, Indiana, and Ohio **with the addition of:* Pennsylvania Milk Marketing Board Area 6 (in western/central Pennsylvania) and 2 currently-unregulated counties in New York, and **minus* the Louisville-Lexington-Evansville order area, 12 counties in Illinois, and unregulated counties in Indiana and Kentucky that are being suggested for inclusion in the Appalachian area.

Major criteria suggesting this consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas suggested to be consolidated. With the consolidation, most route disposition by handlers located within the suggested Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area suggested to be included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

Collection of additional data and recent changes in marketing patterns indicate that the relationship between the Louisville-Lexington-Evansville (L-L-E) area and the order areas initially included in the suggested Appalachian area is closer than relationship between L-L-E and the Mideast area.

Seven distributing plants that would not have been pool plants as a result of the initially-suggested consolidation would become pool plants due to the suggested expansion of the consolidated area into Pennsylvania and New York. The number of pool plants also is affected by a shift of pool plants from one consolidated area to another because of the shift of territory from the initially-suggested Mideast area to the revised suggested Appalachian area.

***6. Upper Midwest**

Current marketing areas of the Chicago Regional, Upper Midwest, Zones I and I(a) of the Michigan Upper Peninsula Federal milk orders, and unregulated portions of Wisconsin, **with the addition of:* the Iowa, Eastern South Dakota, and most of the Nebraska-Western Iowa Federal order areas, plus currently-unregulated counties in Iowa and Nebraska.

Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders and overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order. More-detailed and updated information revealed more significant overlapping procurement and route disposition areas between the Iowa, Eastern South Dakota and Nebraska-Western orders and Chicago Regional and Upper Midwest orders than had been observed in the initial study. In addition, a common pricing plan for producers, natural boundary

limitations, and the prevalence of cheese as a major manufactured product for the substantial reserve milk supplies that exceed fluid milk needs exist in these orders. Some of the western Nebraska area is more closely associated with the Eastern Colorado area, however, and is suggested to remain with the Central consolidated area.

Eleven additional handlers that would have been pooled under the consolidated Central order in the initial Preliminary Report would be pooled under a consolidated Upper Midwest order under this revised report.

***7. Central**

Current marketing areas of the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Southwest Plains, and Eastern Colorado Federal milk orders, 10 counties currently in the Nebraska-Western Iowa Federal order area, plus 55 currently-unregulated counties in Kansas, Missouri, Illinois, Nebraska and Colorado, **plus* the 12 counties in the current Southern Illinois-Eastern Missouri area that initially were suggested as part of the consolidated Mideast area, **minus* the Eastern South Dakota, Iowa and most of the Nebraska-Western Iowa Federal order marketing areas.

Major criteria suggesting this consolidation include the overlapping procurement and route disposition between the current orders. The suggested consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The suggested consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, most of the producers in these areas share membership in several common cooperatives.

***8. Southwest**

Current marketing areas of Texas and New Mexico-West Texas Federal milk orders, **with the addition of:* two northeast Texas counties previously suggested to be added to the Southeast marketing area, and 47 currently-unregulated counties in southwest Texas, and **minus* the Central Arizona marketing area.

Major criteria suggesting consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for both orders. Addition of the currently-unregulated Texas counties will result in the regulation of no additional handlers, and will reduce handlers' recordkeeping and reporting burden and the market administrator's administrative costs. In the initial consolidation report, the Central Arizona area was found to have a minimal association with the New Mexico-West Texas and Texas order areas. Further analysis showed that it has a much more significant degree of association with the Clark County, Nevada, portion of the current Great Basin order area.

The revised suggested consolidated Southwest area would include 4 fewer fully regulated pool plants as a result of the removal of the Central Arizona area.

***9. Arizona-Las Vegas**

*An eleventh marketing area composed of the current marketing area of the Central Arizona order and the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties.

The major criterion suggesting consolidation is sales overlap between the sole Las Vegas, Nevada, handler and handlers regulated under the Central Arizona order in both Clark County, Nevada, and unregulated portions of northern Arizona. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California.

The suggested Arizona-Las Vegas marketing area would include five fully regulated handlers, with no additional handlers regulated because of the addition of the currently-unregulated northern Arizona area.

***10. Western**

Current marketing areas of the Western Colorado, Southwestern Idaho-Eastern Oregon, and Great Basin Federal milk orders, **minus* Clark County, Nevada. Major criteria suggesting consolidation include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also share a similar multiple component pricing plan. The Western Colorado order is included because it is a small market where data cannot be released without revealing confidential information unless combined with the adjacent Great Basin order.

Collection of more-detailed data indicates that the strength of earlier relationships between the former Great Basin and Lake Mead orders that justified their 1988 merger have dwindled significantly, with the Las Vegas area now more closely related to southern California and competing most heavily with Central Arizona handlers.

11. Pacific Northwest

Current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

Following is a table summarizing relevant data for the consolidated markets.

CONSOLIDATED MARKET SUMMARY
[Based on October 1995 Data]

Consolidated order	Number of fully regulated distributing plants		Total producer milk (1000 lbs.)		Combined class I use (percent)		Weighted average utilization value	
	Initial report	Revised report	Initial report	Revised report [1]	Initial report	Revised report	Initial report	Revised report
Northeast	85	92	1,934,833	2,102,620	46.7	49.0	$13.44	$13.49
Appalachian	25	29	320,198	[2] 412,813	82.5	81.5	$14.11	$13.94
Florida	18	16	[3] 200,397	204,541	88.3	88.3	$15.05	$15.05
Southeast	38	40	[4] 443,921	442,705	84.3	84.3	$14.26	$14.25
Mideast	68	68	[5] 1,140,952	1,103,366	57.8	57.2	$12.96	$12.94
Upper Midwest	27	39	[6] 1,046,539	1,354,209	[7] 34.2	[8] 37.6	$12.59	$12.62
Central	42	30	[9] 932,929	599,334	50.6	53.5	$13.15	$13.21
Southwest	31	26	861,307	680,232	48.3	48.1	$13.36	$13.39
Arizona—Las Vegas	N/A	7	N/A	[10] 181,075	N/A	48.9	N/A	$13.26
Western	14	11	304,793	293,714	[11] 31.7	[12] 29.6	$12.79	$12.78
Pacific Northwest	23	21	501,257	493,207	36.3	35.6	$12.45	$12.44
Total	371	379	7,687,126	7,867,816	N/A	N/A	N/A	N/A

[1] Initial report producer deliveries, adjusted to include only those handlers who would be fully regulated (i.e. Status = 1) in the revised suggested marketing area, unless otherwise noted. When applicable, producer deliveries for currently non-Federally regulated plants which would be fully regulated in a revised suggested consolidated order are included in the appropriate suggested consolidated order.

[2] Includes producer milk for one currently fully regulated plant which would be exempt (i.e. Status = 3B) in the Appalachian market in the revised preliminary report.

[3] Excludes producer milk for one currently fully regulated F.O. 7 plant which would be regulated in the Florida market in the initial preliminary report.

[4] Includes producer milk for one currently fully regulated F.O. 7 plant which would be regulated in the Florida market in the initial preliminary report.

[5] Producer milk for F.O. 44 is included. Producer milk for a F.O. 32 handler who would be pooled under the initially-suggested Mideast market is included in the initially-suggested Central market.

[6] Producer milk for F.O. 30 and F.O. 68 only.

[7] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 15.3% combined Class I utilization.

[8] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 19.7% combined Class I utilization.

[9] Includes producer milk for a F.O. 32 handler that would be in the initially-suggested Mideast market.

[10] Excludes producer milk for one currently fully regulated F.O. 139 plant and one currently unregulated plant which would be regulated in the Arizona-Las Vegas market in the revised preliminary report.

[11] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 21.8% combined Class I utilization.

[12] A significant amount of producer milk was not pooled in October 1995. Estimated total producer milk would result in a 21.6% combined Class I utilization.

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