

**UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

RE: DOCKET NO. AO-166-A77; DA-08-06

**MILK IN THE MIDEAST MARKETING AREAS;
PROPOSED AMENDMENTS TO TENTATIVE
MARKETING AGREEMENT AND ORDER
73 FED. REG. 43160 (July 24, 2008)
Hearing: Cincinnati, Ohio, Aug 19, 2008**

**POST-HEARING BRIEF OF
THE MIDWEST DAIRY COALITION**

The brief is submitted on behalf of Associated Milk Producers Inc., Bongards Creamery, Family Dairies USA, First District Association, Manitowoc Milk Producers Association, Mid-west Dairymen's Company, Milwaukee Cooperative Milk Producers, and the Wisconsin Department of Agriculture, Trade and Consumer Protection. These organizations are members of the Midwest Dairy Coalition.

I am writing in opposition to the proposed increases in Class I differentials for the southern counties of Mideast Order.

As detailed in 7 U.S.C. 602 and 608(c)(18), the purpose of the Agricultural Marketing Agreement Act is to "establish and maintain orderly marketing conditions...", to "protect the interest of the consumer...", and to "insure a sufficient quantity of pure and wholesome milk." The Act authorizes the Secretary of Agriculture to establish minimum milk prices to reflect supply and demand conditions in the effected marketing area to met these policy objectives

The proponents of the increased Class I differentials for the Mideast Order have not demonstrated that there is a risk of shortage of milk in the marketing area that would require an increase in the minimum Class I price. Nor have the proponents demonstrated that consumer interests are in jeopardy as a result of the current Class I differentials. However, the proponents of the proposal to increase Class I differentials in the marketing area are alleging disorderly marketing conditions, citing disruption and misalignment caused by changes in the Class I price surface in the neighboring Appalachian /Southeast

Orders effective on May 1, 2008. If such misalignment were truly occurring, the proponents, who collectively control a significant percentage of milk production in the marketing area, should have the ability to bargain for higher over-order premiums to address any marketing disruptions that may be occurring as a result of the Appalachian/Southeast order Class I differential changes.

If such over-order premium bargaining is not occurring, it suggests one of the following possibilities:

- that the alleged Class I price surface misalignment is not truly occurring; or,
- that the misalignment is merely an inconvenience to the effected milk handlers in the area, and not acute enough to threaten the existence “a sufficient quantity of pure and wholesome milk,” or jeopardize “the public interest” in the marketing area.

While it may be easier for the proponents to seek a higher, mandated minimum Class I price rather than having to bargain with their customers for a higher price for their product, this is not a good justification for granting the request.

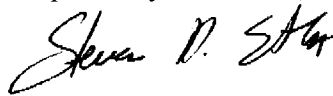
From a broader policy perspective, the proponents’ concerns about Class I price surface misalignment demonstrates the inherent problems with addressing Class I differentials on an order-by-order basis.

Congress and USDA have consistently demonstrated an understanding that changes in Class I differentials have ripple effects far beyond the local area involved. Not only do Class I differential changes in one area have competitive consequences for Class I sales and prices in other regions, but USDA federal order modeling has consistently shown that increases in minimum Class I prices place downward pressure on the price of milk used for manufactured dairy products. Federal order pricing decisions in one area have implications nationwide. For example, when USDA issued its Final Decision on congressionally mandated Federal Milk Marketing Order Reform on April 2, 1999 (64 Fed. Reg. 16026), much of the analysis centered around the concept that changes in the Class I differentials in any area have consequences across other classes of milk and other regions of the country.

Therefore, not only do the members of the Midwest Dairy Coalition oppose the proposed Class I differential changes in the Mideast order, but we also have a strong objection to the recent policy trend by USDA of increasing Class I differentials on a piecemeal, order-by-order basis.

We see no evidence of a supply/demand need for increased Class I differentials in the nation. However, if such a circumstance should arise, the debate on the matter should be addressed as a national hearing, so that all of the national implications of Class I differential changes can be fully considered.

Respectfully submitted,



Steven D. Etko, Coordinator
Midwest Dairy Coalition
1301 Hancock Avenue
Alexandria, VA 22301

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cc:

Garrett B. Steven, Esq.: 'garrett.stevens@usda.gov'
Judge Peter M. Davenport: 'peter.davenport@usda.gov'
Erin C. Taylor: 'erin.taylor@usda.gov'
Bill Richmond: William.Richmond@usda.gov
Marvin Beshore: mbeshore@beshorelaw.com
Ben Yale: ben@yalelawoffice.com
John H. Vetne: john.vetne@verizon.net)