

**BEFORE THE UNITED STATES DEPARTMENT
OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE**

In the Matter of

Milk In The Western

Marketing Area

:
: **Docket Nos.:**
: **AO-380-A18;**
: **DA-01-08**
:

**Statement Regarding Proposals
5 & 11 & 12 & 13 & 14 & 15 & 16
and Emergency Conditions**

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Salt Lake City, Utah

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**Statement of Dairy Farmers of America
Proposals 5 and 11 – 16
And With Regard to Emergency Conditions**

Proposals 5 and 11 – 14

Proposal 5 deals with the proprietary bulk tank handler (PBTH) provision which facilitates pooling arrangements that are causing handlers in the market to question whether or not all milk purchases are being transacted at minimum prices or if some handlers are purchasing milk supplies at below Order prices. Since minimum pricing to handlers is a cornerstone of Federal Order practice, this is a serious charge.

Our customers have brought this matter to our attention repeatedly. A reasonable measure of the concern for this situation is to note that it garnered the most proposals for change in the Notice of Hearing.

As processors concern over this issue grows it becomes both a sore point between buyers and sellers and an opportunity for buyers to negotiate for lower prices. The fact that processor representatives are here with proposals underscores their concern since they are more concerned with correcting or eliminating the problem than they are about allowing the provisions to remain in place and using them as a negotiating lever.

We suggest that, following the age-old adage -- "actions speak louder than words" -- the concern for marketing problems demonstrated in the actions of the handlers speaks more eloquently than any testimonial evidence and should persuade the Secretary to eliminate the provision.

We support the testimony and evidence given by the proponents of proposals 11, 13 and the Market Administrator in proposal 14. We concur with the opinion that this provision is not necessary in Order for the PBTH to be able to pool milk. Clearly, there are no regulatory obstructions to the handlers that use these provisions now from using other Order provisions to accomplish pooling. They would be able to access the pool using the performance methods that would remain in the Order and available to all other participants if this provision were eliminated.

After considering the testimony and evidence given here and from our investigation of the facts surrounding this issue prior to the hearing, we feel that the Secretary should simply eliminate the provision rather than make any of the modifications proposed today.

Proposals 15 and 16

We support the changes proposed by proposals 15 and 16. We view them as modifications to the Order that better reflect current and changing market conditions.

Emergency Conditions

Proposals 1 & 2

We support the contention that these proposals be considered under the emergency hearing procedures. Proposals 1 & 2 deal with the level of the producer blend price and consistent with our position on emergency "records" in other Order hearings, we concur that this proceeding should be treated on an emergency basis.

Proposals 3 – 16

We would also request that proposals 3 – 16 be handled on an "emergency" basis. The final intent of these proposals would have an effect on the blend price and we desire that all proposals be considered in the same time frame so that all parties be treated equitably. It is possible that the outcome of the various proposals will have different competitive effects on each of the parties in the Order. Because of the turn around time that accompanies Order decisions, change in some provisions on an "emergency basis" versus changes in other provisions on a "regular basis" could cause different parties to have differing revenue streams in order to run their businesses and pay producers. All face the same set of Order provisions now and any changes that come as a result of this proceeding should affect all producers at the same time and in the same way.

Furthermore, because of the interaction between competitive activities in Orders 124 and 135 we would request that the decisions announced in both Orders become effective at the same time. DFA members are a part of both Orders and feel that the timing of the effective dates is an important matter. This request is fully and completely under the control of the Secretary and could be accomplished without any special dispensations needed.

For example, distant milk that may now have had access to both pools but because of the staggered decision effective dates comes to have access to only one pool could shift more supplies to the second pool. If the proposals requested here are adopted one of the reasons will be that current conditions are disorderly. The effects of staggered implementation would be more so.

DFA has requested that decisions be contemporaneously implemented in the other now-pending proceedings for Orders 30 / 33 / 32. We make the same request here and believe it is an equitable and fair request.