

January 30, 2024

The Honorable Thomas J. Vilsack
Secretary, U.S. Department of Agriculture
200A Whitten Building
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Ms. Dana H. Coale
Deputy Administrator, Dairy Program
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

RE: Request for Emergency Return to “Higher-of” Class I Mover

Dear Secretary Vilsack and Ms. Coale,

On behalf of Farm Bureau members across the country, I would like to express our appreciation for the U.S. Department of Agriculture’s continuing efforts to help provide price stability and transparency to dairy farmers. We all understand the challenges that face U.S. dairy farm families year in and year out and their critical role in the well-being of our nation.

While Farm Bureau appreciates the value of the full hearing process for amending Federal Milk Marketing Orders, ongoing milk price spreads have driven persistently negative impacts on dairy farmers from the current “average of” Class I mover formula. Therefore, the American Farm Bureau Federation requests emergency implementation of the previous “higher-of” Class I mover formula to buffer dairy farmers from further losses during this comprehensive and extensive regulatory amendment process.

The 2018 farm bill included a provision that swapped the higher-of the advanced Class III or IV skim milk price formula for the simple average-of advanced Class III and IV skim milk formulas plus 74 cents intended to produce a roughly equal long-term Class I milk price. This statutory change was made at the request of dairy processors and dairy cooperatives and was intended as a revenue-neutral way to improve risk management opportunities for beverage milk. It was not based on a hearing record of demonstrated need.

Disruptive market conditions during the recent pandemic exposed and exacerbated a temporary but serious shortage of block cheddar cheese production, very high Class III values, and a huge imbalance between Class III and Class IV prices, leading to over \$700 million in Class I revenue losses to producers in the 11 federal order pools in 2020 alone. This, along with the delay associated with advanced pricing, resulted in manufacturing milk prices higher than the market blends, leading to massive de-pooling of producer milk by manufacturing plants to capture those

higher market prices. These large negative producer price differentials created significant disparities among the milk checks of different groups of farmers. These losses in pool value have continued through 2023, as Class IV prices have become the driver of the dairy market and the gap between Class III and Class IV prices has flipped, but remained large, with no end in sight. As of December 2023, cumulative pool losses have surpassed \$1 billion since the formula went into effect in May 2019, including pool losses of \$50 million in November 2023 and \$38 million in December of 2023. Dairy farmers with pooled milk face ongoing threats of decreased milk checks linked to the current Class I mover formula.

Last week, on Tuesday, January 23rd, AFBF's grassroots delegates from across the nation, representing all types of farmers, ranchers and agricultural producers gathered at American Farm Bureau's annual meeting in Salt Lake City to represent the interests of nearly six million member families. During this session, these selected community leaders are tasked with reviewing, revising and reaffirming existing national policy positions and approving policy on new issues and topics. In the dairy section, our delegates unanimously reaffirmed the following AFBF policy statement: *"We support: Revisions to the FMMO, including fluid milk pricing, progress through the normal channels at USDA that will provide thorough economic analysis and public hearings for producers to be engaged, rather than through legislative override. **However, given the circumstances of the Class I mover changes in the 2018 farm bill, we support returning to the Class I milk mover formula to the higher of Class III or IV in the most expedient manner possible.**"*

AFBF respects the FMMO amendment process. Our delegates expressed clear support for revisions occurring through the normal regulatory process at USDA. In this special case, however, the "higher-of" Class I mover formula, which was a direct result of a previous, thorough FMMO hearing process discussion and approved by a referendum of dairy farmers was replaced without a public hearing process due to an act of Congress. This approach resulted in an outcome that unintentionally harmed our dairy farmers' ability to break even during a time defined by volatile, unforgiving market conditions. Given that USDA previously had concluded that the "higher-of" was an appropriate formula for the Class I mover, we believe it is reasonable to request a return to this previous, vetted determination as soon as possible.

We note that the FMMO hearing process is only in step five of a 12 step process before changes would potentially go into effect for our dairy farmers. With nearly \$90 million in pool-related losses in the previous two months alone, any additional month under the current formula regime poses a threat to dairy farmers' livelihoods. By our reckoning, an emergency decision could speed implementation by six months or more.

We are aware of the possible impact a formula change may have on current futures contracts and risk management practices. If USDA believes that there should be a delay in implementing a change to the Class I mover, better to start the clock sooner than later.

The comprehensive process of amending federal orders, though important, means dairy farmers remain stuck with current pricing regulations until USDA publishes a final rule. Current market dynamics underscore the need for FMMO modernization. The current Class I mover was a well-intentioned policy misstep that has reduced dairy farmers' checks, with little relief in sight.

Emergency implementation of the “higher-of” Class I mover formula will help buffer against persistent losses associated with mistaken and outdated policies that have left dairy farmers struggling to make ends meet.

Thank you for all you do for American agriculture.

Most respectfully,

A handwritten signature in black ink, appearing to read "Sam Kieffer". The signature is stylized with a large, looped "S" and "K".

Samuel A. Kieffer
Vice President, Public Policy