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USDA-AMS-Dairy Program  
Stop 0225, Room 2968-South  
1400 Independence Avenue, SW  
Washington, D.C. 20250-0225

Re: Opposition to changing current skim/butterfat pricing in orders 5&7 to Multiple Component Pricing.

Opposition to the proposal submitted by NAJ to changing the current pricing structure in FMMOs 5&7 is based on the proposition that the **majority of producers** in both orders will be negatively affected.

Statements made in the first two paragraphs of the NAJ proposal establishing reasons for the change can just as easily be arguments against the change. **Multiple Component Pricing (MCP) has already been rejected four times.** Why continue down that same questionable path?

From recent graphs provided by AMS (attached), both FMMOs 5&7 are still Class 1 fluid markets. Utilization at pooling plants in both orders is 80.1% for Class 1. Utilization in the market is statistically the same at 69% in both orders.

Considering that objectives of FMMOs are to promote orderly marketing conditions for fluid milk markets, ensure a fluid milk supply and to establish value at locations, how can Dairy Programs justify MCP in orders 5&7 when MCP is designed to pay for Protein first at a premium price regardless of location and furthermore where is the justification for MCP in milk deficit orders (5,7) by allowing Protein to be paid with location dollars? And, since Protein is deemed so valuable, why not require the same obligation to be paid into the pool (location) for Protein (including other solids) as the same value being paid out.

If as stated that a Federal Milk Order allows market supply and demand conditions to determine the basic price of milk, how does inflating the value of protein on the supply side while not recognizing value on the demand side (80 +% class 1) fit this statement?

If a Federal Milk Order is to promote equity among handlers by establishing identical minimum class prices for all handlers similarly located when protein is forced to be paid with Class 1 differential dollars regardless of where producer milk is delivered, where is the equity? Dollars are still needed to get milk to the plant.

If a Federal Milk Order does not insulate producers from market signals, then where is the justification for paying producers protein above 3.1 proteins, 5.9 other solids plus 350,000 in an 80+% Class 1 marketing area?

When FMMO pooling standards are designed to encourage service to a Class 1 Market, why deliver milk when one can collect the Class 1 dollars with protein?

FMMOs are not authorized as a price or income support program, however that is exactly what it is when paying by way of MCP in a 80+% Class 1 market.

In a recent letter written to you, one Tennessee producer wrote, and I quote,

"My major concern would be that it (MCP) allows more dollars to flow out of the area since such a large volume of milk gets qualified here relatively easy. I realize that some producers would have higher prices, however the net effect could be fewer total dollars for producers within the boundaries of the order. I say this even though I have one high solids herd which would benefit from the change. These two orders stand to lose a great number of producers over the next few years and this seems to accelerate every time order rules are changed. I believe we should look to changes in pooling requirements and transportation credits to protect local production, local processing and local consumers in the order areas before most of the local production is completely gone."

With the current stress of uncertain market conditions, possible loss of markets and unusual extended low milk prices creating grave concerns, not only for producers, but Agricultural lenders as well, why burden the industry with prospects of such a change. There is no reasonable rationale in these volatile markets for taking dollars from a majority of producers and giving it to a few; thus creating more losers than winners. And with an understanding of the time frame as set by rules for such a hearing, producers would be greatly challenged to be able to testify if a hearing was granted with the requirements of time for hay and early silage chopping.

*However, should a hearing be granted on the NAJ proposal, a pre-hearing is requested for further discussion, clarification and support of the following proposal.*

**Proposal)** Give consideration to the adoption of state-unit pooling such as has been used for the Northeast Marketing Order. (Rules attached for FMMO 1). This proposal addresses how out-of-area milk is qualified as producer milk. The out-of-area milk has to qualify on its own merit and cannot use in area sales or milk movement to qualify that milk, so it must meet its own performance units separately. That is part of the reason it is used so that if milk is really needed and it performs to the market, it can be pooled. If it is not needed and does not meet the standards on its own then it would not be pooled.

The above mentioned proposal requests the Secretary of Agriculture to examine milk pooling and revenue distribution provisions affecting the Southeast markets, primarily FMMOs 5 & 7.

In a **Brief and Proposed Findings of Fact** written by Charles M. English, Jr., dated March 21, 2006 and submitted to the Secretary of Agriculture, he stated concerning changes and proposed amendments to the Tentative Marketing Orders for milk marketed in the Southeast and Appalachian marketing areas,

"All of these changes have created new economic opportunities to pool additional supplies of milk that then draw money out of the pool when the milk is used in manufacturing at vast distances from the marketplace. First, the supplemental milk that is pooled and delivered draws a transportation credit that pays part of the cost (and if proponents' proposal is adopted an even greater share of that cost) of transporting the milk. Second, having increased the ability to bring the milk in order to achieve touchbase requirements, this increases handlers' ability to pool additional milk without delivering all of the milk to pool distributing plants every day. Finally, we have simultaneously increased the value of the milk that stays home. What a deal! What a deal for everyone other than the local dairy farmers who are struggling to stay in business. What a deal, except for the regulated Class I handler is always asked to pony up more money for transportation credits so that milk can move farther distances which can pool more milk that moves no distance at all, but draws money out of the pool."

It was further stated in the same **Brief**,

By adopting a combination of larger and fewer orders, adopting transportation credits and changing the principle of zoning out, the Secretary inadvertently (and the industry with or without knowledge) has created a vicious cycle that has lowered blend prices in the Southeast, causing more local dairy farmers to go out of business, further increasing the need for more transportation credits, thus increasing reliance on outside milk but giving that outside milk undue price incentives to stay home, collect blend price and thus reduce the blend price further to local dairy farmers.

It is also stated in the **Brief** that the logic that led the Secretary to move away from pricing based upon the plant from which diverted is identical to the logic and policy arguments made for returning to orderly marketing conditions by returning to zoned out pricing for out-of-order diverted milk and limiting transportation credits when excess milk is associated with these markets.

"The current touchbase standards are resulting in the uneconomic movement of milk solely for the purpose of meeting a pool standard" said one White Paper (attached) in reference to the addressed concern. The current touchbase standards of the two orders too often result in the substitution of local milk with the milk of more distant producers thus replacing the milk of local producers supplying the market. Market data suggest that local milk continues to be displaced by out-of-area milk as suppliers with out-of-area milk seek to maximize revenue from favorable blend prices in the Southeast markets and from the opportunity of transportation credits to help finance pool access."

The paper further suggested that "the Southeast markets should not subsidize the cost of touchbase pool performance to allow more distant milk to draw high blend prices when diverted for manufacturing use. The idea, in part, would disallow a transportation credit milk shipment from meeting the touchbase requirements of section 13(d)(1) and (2) which is consistent with exclusion of transportation credit milk from aggregate diversion limits in sections 13(d)(3) and (4).

Greater touchbase requirements would be restored for individual producer milk and the reasons given in 2008 for relaxing these provisions have not been realized. The revenue disadvantage to local Southeast producers from this change far outweigh any possible gain of efficiency for suppliers eager to associate distant milk at minimal performance cost.

It was also stated that consideration should be given to the adoption of state-unit pooling for out-of-region milk supplies, such as have long been in use for the Northeast Marketing Order. Under current provisions, an interregional milk supplier can qualify distant milk for section 13(d)(3) and (4) aggregate diversion purposes by use of local milk for pool plant delivery purposes, freeing up distant milk for diversion to manufacturing plants without significant performance. Given this consideration, every source of out-of-region milk would be required to meet the needs of the market on its own performance merits, thus the request for the above mentioned **Proposal**.

In an early summary in the aforementioned **Brief**, it was acknowledged that there was a problem in these orders, but further stated that the situation fell under the term "disorderly marketing conditions" – that is the Secretary is to maintain orderly marketing conditions. 7 U.S.C.602. It was also noted that Southeast markets were "chronically deficit in nature and that the costs of supplying these markets are not equally borne by market participants. But the disorderly marketing conditions that are identified also include incentives to pool milk that is not delivered when that pooling is occurring for the benefit of the party pooling the milk and not the benefit of the market.

A conclusive statement addressing disorderly marketing conditions states, "The reality is that if a pooling game exists, someone will play it. And pooling games are not played to the advantage of the Southeastern Dairy farmer struggling to provide milk to its local market."

**It was true then and oh how true it is now!**

The pooling of such distant milk when diverted unduly draws larger revenue from the Southeast milk pools to the extreme detriment of local producers.

By adopting state-unit pooling in orders 5&7 out-of-area milk would be required to qualify on its own merit. If milk is needed and it performs to the market, it can be pooled. If it is not needed and does not meet the standards on its own then it would not be pooled.

Respectfully submitted,

Stan Butt  
Executive Director  
Tennessee Dairy Producers Association

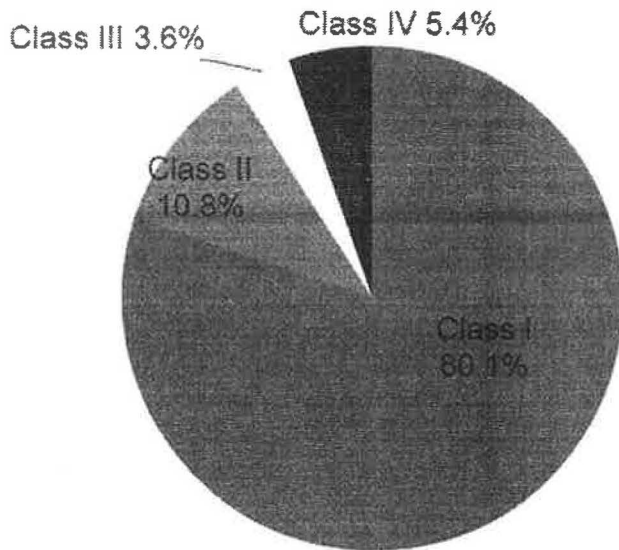
Proposal supported by Dairy Producers in Georgia, Kentucky, North Carolina and Tennessee

# 2017 Utilization - Federal Order 7

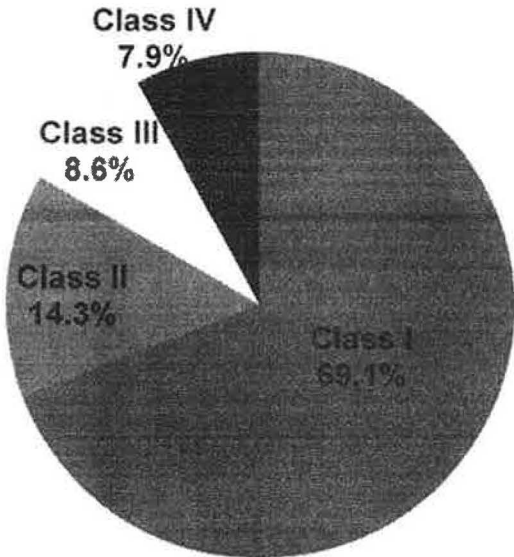
Pool Distributing Plants: 20

Pool Supply Plants: 1-2

**Pool Plants**



**Market**



**NORTHEAST  
MARKETING AREA**



**FEDERAL ORDER 1**

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.

**§ 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 of any marketing area in which the plant distributes packaged fluid milk products 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 facilities 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 and packaged sales of fluid milk products to other plants of 150,000 pounds or less during the month.

**§ 1001.8 Nonpool plant.**

See § 1000.8.

**§ 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 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 farm bulk tank weights and samples.

**§ 1001.9 Handler.**

See § 1000.9.

**§ 1001.10 Producer-handler.**

Producer-handler means a person who:

(a) Operates a dairy farm and a distributing plant from which there is route disposition in the marketing area, and from which total route disposition and packaged sales of fluid milk products to other plants during the month does not exceed 3 million pounds;

(b) Receives milk solely from own farm production or receives milk that is fully subject to the pricing and pooling provisions of this or any other 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; 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 (excluding receipts from handlers fully regulated under any Federal order) and the processing and packaging operations are the producer-handler's own enterprise and at its own risk.

(f) Any producer-handler with Class I route dispositions and/or transfers of packaged fluid milk products in the marketing area described in Sec. 1131.2 of this chapter shall be subject to payments into the Order 1131 producer settlement fund on such dispositions pursuant to Sec. 1000.76(a) and payments into the Order 1131 administrative fund provided such dispositions are less than three million pounds in the current month and such producer-handler had total Class I route dispositions and/or transfers of packaged fluid milk products from own farm production of three million pounds or more the previous month. If the producer-handler has Class I route dispositions and/or transfers of packaged fluid milk products into the marketing area described in Sec. 1131.2 of this chapter of three million pounds or more during the current month, such producer-handler shall be subject to the provisions described in Sec. 1131.7 of this chapter or Sec. 1000.76(a).

**§ 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 a dairy farmer described in paragraphs (b)(1) through (6) of this section. A dairy farmer described in paragraphs (b)(5) or (6) of this section shall be known as a dairy farmer for other markets.

(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;

(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 which is picked up from the producer's farm 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 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 the operator of a pool plant or 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 and outside the states 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 reporting unit 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 one day's milk production of such dairy farmer was physically received as producer milk and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion unless milk of the dairy farmer has been physically received as producer milk at a pool plant during the month;

(2) Of the total quantity of producer milk received during the month (including diversion but excluding the quantity of producer milk received from a handler described in §1000.9(c) or which is diverted to another pool plant), the handler diverted to nonpool plants not more than 80 percent during each of the months of September through November and 90 percent during each of the months of January through August and December. In the event that a handler causes the milk of a producer to be over diverted, a dairy farmer will not lose producer status;

(3) Diverted milk shall be priced at the location of the plant to which diverted.

(4) Any milk diverted in excess of the limits set forth in paragraph (d) (2) 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

(5) The delivery day requirement and the diversion percentages in paragraphs (d) (1) and (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 request is made in writing at least 15 days prior to the month for which the requested revision is desired to be 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 or delivery day requirement must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of another government entity.

**§ 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) and § 1135.11, 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.

**§ 1001.14 Other source milk.**

See § 1000.14.

**§ 1000.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, fluid milk product shall mean any milk products in fluid or frozen form that are intended to be used as beverages containing less than 9 percent butterfat and 6.5 percent or more nonfat solids or 2.25 percent or more true milk protein. Sources of such nonfat solids/protein include but are not limited to: Casein, whey protein concentrate, milk protein concentrate, dry whey, caseinates, lactose, and any similar dairy derived ingredient. 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 or reduced nonfat solids, sterilized, concentrated, or reconstituted. As used in this part, the term concentrated milk means milk that contains not less than 25.5 percent, and not more than 50 percent, total milk solids.

(b) The term fluid milk product shall not include:

(1) Any product that contains less than 6.5 percent nonfat milk solids and contains less than 2.25 percent true milk protein; whey; plain or sweetened evaporated milk/skim milk; sweetened condensed

The attached rulemaking proposals request the Secretary of Agriculture to examine milk pooling and revenue distribution provisions of the Southeast and Appalachian Milk Marketing Orders ("southeast markets") for the benefit of those producers who regularly and consistently serve the Class I needs of the markets.

In the course of Federal Milk Marketing Order Reform, USDA observed that Class I utilization of milk in the Southeast and Appalachian markets during the deficit production period ranged from 80% to 87%, and projected that continued high utilization would result in minimal blend price impact on the region's producers. 64 Fed. Reg. 16026, 16058, 16064 (Apr. 2, 1999). At that time, the southeast markets discouraged the pooling of distant milk by mileage-based, zone-out pricing for milk diverted to distant locations. Diverted milk was thereby priced relative to its value to the pooling market. This feature was eliminated by national Class I pricing zones that, when applied to producer milk blend price adjustments, encourage the pooling of distant milk and often provide a blend price at distant locations higher than the blend price available in the home market from which milk originates. Class I utilization of producer milk during 2012 averaged 69% for the Southeast market, and 66% for the Appalachian market.

USDA has amended several orders to restrict the means by which distant milk is pooled, by tightening pool performance requirements. The agency has not yet examined changes to the financial incentive for distant pooling – high blend prices at distant locations. By the attached proposals, the agency is requested to consider both the means (pooling) and incentive (price) by which distant milk is encouraged to seek a share of milk revenue pools for the southeast markets.

USDA most recently considered pooling performance provisions by hearing in 2007, and interim decision published at 73 Fed. Reg. 11194 (Feb. 29, 2008). In that decision, the Secretary stated:

The record of this proceeding reveals that for many years milk production has been declining in the southeastern region and supplying the region with supplemental milk has demanded the sourcing of milk supplies from ever farther distances from the marketing areas. Not only has the decline in milk production been in absolute terms, but when balanced with population increases, milk production in the region has failed to satisfy fluid demands year round.

73 Fed. Reg. at 11205. The local decline in milk production continues, as some out-of-region milk supplies properly serve to supplement local needs. Distant milk supplies also significantly displace local milk in order to take advantage of enhanced blend price advantages for milk diverted to distant manufacturing plant locations.

By amendments from the 2008 decision, the opportunity to draw a blend price on milk diverted for manufacturing use was limited by reduction in the quantity of allowable diversions to 25% of a handler's milk supply during short production months, and 35% during months of relatively greater supply. The Secretary explained that...

...lowering the diversion limit standards is appropriate to better assure that only milk which regularly and consistently services the market's Class I needs is pooled. Associating more milk than is actually part of the legitimate reserve supply available for Class I use unnecessarily reduces the potential blend price paid to dairy farmers who regularly and consistently service the markets' Class I needs.

73 Fed. Reg. at 11208. As a result of the diversion limit amendment, total diverted milk from out-of-area producers pooled in Order 7 declined modestly, from 80% of total diversions in 2007 to 74 % in 2012. But the volume of pool milk from out-of-area and distant farm locations has not declined, and represents an ever-increasing percentage of the pool milk supply in the southeast.

While making diversions more restrictive, USDA's 2008 decision made it easier to associate individual producers with the revenue pools of the southeast markets by requiring only one day's milk production to "touch base" (be delivered to a pool plant). This feature generated controversy, but the Secretary concluded that, because diversions were tightened, "an easing of the touch-base standard can be made without fear of pooling the milk of producers who are not part of the regular and consistent supply of milk serving the Class I needs of the two marketing areas." It does not appear that this reassurance has been realized. The Secretary acknowledged the merits of a higher touch base requirement, but predicted that a one-day requirement would eliminate displacement of in-area producer milk by distant milk for the sole purpose of pool qualification.

While a higher touch-base standard tends to support the integrity of the order's performance standards, the current touch-base standards are resulting in the uneconomic movement of milk solely for the purpose of meeting a pooling standard. The current touch-base standards of the two orders too often result in the substitution of local milk with the milk of more distant producers thus displacing the milk of local producers supplying the market.

Market data reveals that local milk continues to be displaced by out-of-area milk as suppliers with out-of-area milk seek to maximize revenue from favorable blend prices in the southeast markets and from the opportunity of transportation



credits to help finance pool access. Data provided by the Southeast Market Administrator reveals that Class I utilization (%) of in-area milk production has, in fact, declined somewhat since 2007, as shown below:

	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec
'07	71	68	68	64	64	68	69	70	68	68	72	70
'11	62	66	63	57	57	62	69	74	69	68	70	69
'12	70	65	63	60	63	67	71	73	67	72	70	66

The current practice of pricing diverted milk at distant locations without regard to its value to the market from which it draws a blend price continues to encourage distant milk to be pooled in the southeast markets, and artificially to depress the blend price available to in-area dairy farmers. For example, the 2012 annual average Order 7 blend price payable for milk diverted to Dalhart, Texas, exceeded the home order (Order 126) blend price at Dalhart by \$1.01/cwt. The Order 7 pooling advantage at Denmark, Wisconsin, was \$0.67 greater than the home order, and the advantage at Carlisle, PA, was \$0.86 over the Order 1 blend price. More extreme differences on a monthly basis allow suppliers with distant milk and local pooling base to maximize revenue by pooling in the southeast markets, shifting to a local market, or depooling entirely, thus maximizing draw from the southeast revenue pools and minimizing contribution to the pools and local market needs. [cite month – to – month examples ]. The availability of a blend price higher than the home market is a powerful incentive to associate distant milk supplies with the southeast markets.

It is respectfully suggested that the southeast markets should not subsidize the cost of touch-base pool performance to allow more distant milk to draw high blend prices when diverted for manufacturing use. Proposal No. 1, in part, would disallow a transportation credit milk shipment from meeting the touch base requirements of section 13(d)(1) and (2). This is consistent with exclusion of transportation credit milk from aggregate diversion limits in sections 13(d)(3) and (4).

Proposal No. 1 also restores greater touch base requirements for individual producer milk. The reasons given in 2008 for relaxing these provisions have not been realized, and the revenue disadvantage to local southeast producers from this change far outweighs any possible gain of efficiency for suppliers eager to associate distant milk at minimal performance cost.

Another feature of Proposal No. 1 is adoption of state-unit pooling for out-of-region milk supplies, such as have long been in use for the Northeast Marketing Order. Under current provisions, an interregional milk supplier can qualify distant milk for section 13(d)(3) and (4) aggregate diversion purposes by use of local milk for

pool plant delivery purposes, freeing up distant milk for diversion to manufacturing plants without significant performance. By this proposed feature, every source of out-of-region milk would be required to meet the needs of the market on its own performance merits.

Proposal No. 2 seeks to restore for the southeast markets the economic reality that producer milk diverted for manufacturing at distant locations has less value to the pool, directly proportionate to distance, and should be priced in accordance with that lower value. This proposal addresses the revenue incentive to pool distant milk rather than the means or costs of pooling.

Prior to federal order reform, milk marketing orders reduced the price of diverted milk by mileage of the receiving plant from pricing points in the pooling market. Both the pre-reform Southeast Order and Carolina Order reduced plant and blend prices for such distant deliveries by a rate of 2.5 cents/cwt/10 miles from designated pricing points. 7 C.F.R. §1007.52(a)(6)(1999 ed.) and .75(a); 7 C.F.R. §1005.53(a)(7) and .75(a). Adjustment of both plant and blend prices at the same rate produced inconsistent Class I prices at plant locations. The integrity of the current Class I pricing surface, however, need not be disturbed to restore the benefit of distant milk pooling disincentive that existed prior to FMMO Reform. The AMAA expressly allows producer blend prices to be adjusted without regard to classified price adjustments. The 1985 Farm Bill, amending 7 U.S.C. §608c5(L), expressly authorized USDA to adjust producer prices in a manner different from Class I prices: "adjustments in payments by handlers under paragraph (A) [i.e., Class I differentials] need not be the same as adjustments to producers under paragraph (B) [i.e., producer blend or PPD prices]." Nowhere is use of this legislative tool more urgent than in the southeast markets. Proposal No. 2, therefore, would apply a transportation rate to reflect the lower value of producer milk delivered to distant manufacturing plants. The proposed rate of adjustment is similar to the current rate of transportation credits. Such credits compensate the shipper for the additional value of milk to the southeast relative to its value at point of origin. By similar adjustment for milk that remains at its origin location, diverted producer milk would also be priced relative to its value to the southeast markets.

Finally, proposal No. 3 asks USDA to reexamine the fundamental policy of allowing transportation credits for distant milk supplies, and at the same time allowing such milk to freely draw from the revenue pool when diverted for manufacturing use. Transportation credits should be available to secure milk when needed for Class I use. But the pooling of such distant milk when diverted unduly draws larger revenue from the southeast milk pools to the extreme detriment of local producers.