

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

In the Matter of :
Milk In The Mideast : **Docket Nos.:**
Marketing Area : **AO-166-A68 et al;**
 : **DA-01-04**
 :

**BRIEF FOR DAIRY FARMERS OF AMERICA (DFA),
MICHIGAN MILK PRODUCERS ASSOCIATION (MMPA), AND
PRAIRIE FARMS DAIRY, INC.**

Date: December 12, 2001

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Order 33 Producer Milk language as proposed: 7 CFR §1033.13.

(Proposal 3, as published and including modifications at the hearing)

Sec. 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 Sec. 1000.9(c). 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 Sec. 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 Sec. 1000.9(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 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 until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) The equivalent of at least two one day's production is caused by the handler to be physically received at a pool plant in each of the months of August September through November;

(3) The equivalent of at least two day's production is caused by the handler to be physically received at a pool plant in each of the months of December through July if the requirement of § 1033.13(d)(2) for the prior August through November period are not met, except in the case of a dairy farmer who marketed no grade A milk during the prior August-November period.

(34) 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 Sec. 1000.9(c) or which is diverted to another pool plant), the handler diverted to nonpool plants not more than 60 percent during the months of August September through February; and 70 percent during the months of March through July.

(45) Diverted milk shall be priced at the location of the plant to which diverted;

(56) 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

(67) 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 request is made in writing at least 15 days prior to the month 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.

I. INTRODUCTION

This brief is submitted by DFA, MMPA, and Prairie Farms in accordance with the briefing schedule established at the close of the hearing. It addresses all proposals at the hearing, those advanced by these proponents and those proposals advanced by other parties. The hearing proposals primarily concern pooling issues, as well as an important producer payment issue.

It is important, and significant, to note from the outset that all hearing participants, individual producers, cooperatives, and proprietary handlers alike, agreed that the pooling provisions of the Order need to be tightened. To the extent that there were differences, they involved varying views on which provisions to tighten and how tight to make them. On the basis of this industry consensus, the proposals should be adopted as discussed hereafter.

II. FACTUAL BACKGROUND

Proponents

1. Dairy Farmers of America, Inc., (DFA) is a Capper-Volstead cooperative association of 16,905 dairy farms producing milk in forty-six (46) states. DFA regularly markets milk on 10 of the 11 federal milk orders, including Order 33. (Tr. 132; Exh. 12, p.1)

2. Michigan Milk Producers Association (MMPA) is a Capper-Volstead cooperative association of more than 2,600 members. MMPA members produce milk in Michigan, Ohio, Indiana, and Wisconsin. MMPA is engaged exclusively in the marketing of milk and dairy products. (Tr. 132; Exh. 12, p.1)

3. Prairie Farms Dairy, Inc., is a Capper-Volstead cooperative owned by 800 dairy farmer members. Prairie Farms owns and operates a number of milk processing plants and regularly markets milk in Order 33. (Tr. 132; Exh. 12, p.1)

The Market

4. Federal Order 33, the order regulating handling of milk in the Mideast marketing area, effective January 1, 2000, is a product of the consolidation of the former Southern Michigan Order 7 C.F.R. § 1040; the Indiana Order, 7 C.F.R. § 1049; the Ohio Valley Order, 7 C.F.R. § 1033; and the Eastern Ohio-Western Pennsylvania Order, 7 C.F.R. § 1036. In addition, it includes a portion of what was the Michigan Upper Peninsula Order, 7 C.F.R. § 1044, and a few previously unregulated counties in Indiana, Michigan, and Ohio. (Tr. 144-147; Exh. 12, pp.7-8)

5. Order 33 was developed in the federal order reform process by application of a set of market definition principles set out in the final decision. See 64 Fed. Reg.16045 (April 2, 1999). (Tr. 138-144 ; Exh. 12 pp.4-7)

6. Order 33 combined orders in which the handlers had substantially overlapping distribution routes and the producer supply was extensively co-mingled. The resulting order had 90 percent of its anticipated pool of milk from the marketing area counties in the states of Michigan, Ohio, Indiana, and the western portion of Pennsylvania. (Tr. 144-145; Exh. 12, p.11)

7. The combined Class I utilization of the Mideast order was estimated to be about 58.7 percent. (Tr. 149-150; Exh.. 12, pp. 14-15)

8. The actual Class I utilization on Order 33 has varied from a high of 52 percent in January of 2000 to a low of 30.9 percent in July 2001. (Exh. 5, p.6)

9. The reduced Class I utilization has resulted from the pooling of large numbers of producers and milk volumes from sources outside the marketing area, in particular producers from the states of Minnesota, North Dakota, South Dakota, Iowa, Kansas and Wisconsin. (Exh. 5, Table 13)

10. The pooling of milk from outside the marketing area has been facilitated by

pooling provisions which allow, through various mechanisms, milk to be pooled on the order with the benefit of few if any deliveries to distributing plants serving the marketing area. Among the provisions which accommodate the association of milk from distant locations without performance are: (1) provisions which allow distant supply plants to be qualified by delivery of milk from nearby, in-area producers; (2) the provisions allowing unlimited diversion of producer milk during certain months; (3) the provisions which allow a “free ride” to supply plants during certain months of the year; (4) the provisions which allow unlimited diversions of milk from distributing plants to pool plants; and (5) the provisions of the order which allow a “split” pool and non-pool supply plant on one physical facility.

III. SUMMARY OF THE POOLING PROBLEMS AND THE SOLUTIONS

PROPOSED

The pooling provisions for Order 33 are a complex set of regulations (see Exhibits A & B attached hereto) which, when utilized to their fullest advantage by experienced marketing organizations, have resulted in uneconomic and disorderly marketing conditions which must be corrected. Pooling regulations which were written to allow the greatest efficiency of milk assembly and pooling from sources **within** the predecessor marketing areas have allowed the association of huge volumes of distant milk with almost no market performance required. The statistics are stark: since June 2000, 4.124 billion pounds of milk from areas not historically associated with the marketing area have been pooled with only 2.75 percent of those volumes delivered (net receipts) to pool plants within the Order 33 marketing area. (Exh. 5, Appendix C) The economic losses suffered by the local producers who day in and day out supply the Class I needs of the market have been substantial. Various estimates have indicated a reduction in the “effective” blend price ranging from \$.25 to more than \$.80 per hundred weight (Exh. 9). It is

not disputed that the blend price reductions have meant a transfer of millions of dollars of revenues from producers historically and currently supplying the everyday needs of the market to producers from distant areas pooling on the basis of little or no performance.

While the change in the pricing of distant milk which came with federal order reform is at the root of the change in pooling practices, there is no proposal in the hearing to make any changes in this pricing system.¹ Therefore, the pooling provisions must be reevaluated to assure that milk which is pooled can economically serve the Class I needs of the market on a regular basis. See Exh. 13 Tables 6-8. The economic basis for sharing revenues of a federal order pool is eroded, if not completely washed away, by provisions which accommodate the open pooling of milk from non-economic sources of supply. The proposals of Dairy Farmers of America, Michigan Milk Producers Association, and Prairie Farms Dairy address these issues and will restore some economic integrity to the pooling of milk in Order 33.

These proposals are not only supported by producers and their representatives. They are also supported, in substantial part, by Suiza Foods, the largest Class I handler in the market; and in large part by the Pennsylvania–Ohio handlers group. In addition, Prairie Farms, one of the proponents, owns and operates fluid milk handling plants in this order and other orders and is supporting the proposals both from the producer and the handler perspective.

The pooling proposals which we support, Proposals 1,2,3, and 5 in the Hearing Notice with modifications advanced at the hearings, were cogently summarized in Mr. Rasch's testimony. (Tr. 262–273; Exh. 19)

1. Proposal 1: Amends the pool plant definition for a distributing plant to increase

¹ These cooperatives in fact support the price surface adopted in federal order reform and do not imply any critique of it.

the minimum percentage of milk used in route disposition from 30 percent to 35 percent for the months of May through July and from 30 percent to 40 percent for the months of August through April.

2. Proposal 2: Amends the pool supply plant provisions of the Order in four separate respects: (1) It eliminates existing subsection (c)(4) which provides for automatic pool plant status during March through August for certain plants, the so-called “free ride”. (2) It eliminates qualifying shipments to other order plants by deleting existing subsection (c)(1)(iv). (3) It adds a new section (c)(4) to test all qualifying deliveries from supply plants on a “net receipts” basis. And, (4) it adds language to (c)(2) to require geographic association of producer milk with a supply plant which is not in the marketing area if the milk is direct-shipped to the market to qualify the supply plant.

3. Proposal 3: Amends the producer milk provisions of the order in five separate respects: (1) It increases the touch base provision under (d)(2) from one day to two days. (2) It adds August as a mandatory touch base month. (3) It adds a requirement that producers coming onto the market during the months of December through July be required to touch base two days a month if they have not been on the market from August through November. (4) It establishes a diversion limitation in Part (d)(4) at 60 percent or 70 percent during specified months of the year, eliminating the current regulation in which there is presently no diversion limit for several months of the year; and (5) it revises the language (d)(4) to eliminate a loophole allowing distributing plant handlers to increase non-pool plant diversion rights by diverting milk to pool plants.

4. Proposal 5: This proposal eliminates the “split plant” provisions embodied in (h)(7) of Part 7 of the Order.

These amendments are a package which need to be considered, and adopted, as a group. The “art” of pooling is such that, once the learning curve² is conquered, small loopholes can allow major unintended consequences. Therefore, we respectfully urge that this group of proposed amendments be considered, and adopted, together. Such action will put Order 33 back on a sound economic basis and restore it to an orderly market which allows pooling from producers from any area who perform for the needs of the market.

IV. THE CONCEPT OF A FEDERAL ORDER MARKET

It is critical, in the view of these cooperatives, that the Secretary adhere to the concept for establishing and operating federal milk market orders which recognizes and implements market principles. The Secretary explicitly adopted this practice in the decision for federal order reform and the Department should follow the same principles in evaluating the operation of the orders, post-reform, and fine-tuning these regulations as needed.

In the final decision for federal order reform, the Secretary explicitly established seven criteria for determining which previous orders should be consolidated so that the resulting order fit together on the basis of market economic factors, including overlapping route disposition and overlapping milk supply. (Tr. 148–155; Exh. 12, pp. 4–7) The Secretary found that both overlapping route disposition and overlapping production areas supported the configuration of the consolidated Mideast order. (Exh. 12, p. 16) Forming the federal orders on the basis of market principles assures that the persons who contribute to the pool by producing and distributing the Class I milk in the geographic area are the persons who share in the proceeds of the pool. There were no factors analyzed in the final decision which point to the sources of out-

² The “learning curve” phenomenon was noted and described by Mr. Hollon. See TR. 166.

of-area milk now being pooled as having a significant economic connection with the Mideast marketing area..

In implementing market principles in this hearing, the Secretary must continue to reject, as was done in the final decision, the open pooling of milk on federal orders (which we define as the association of milk with a market order without any meaningful performance nexus to serving the Class I needs of the market). The final decision emphasized the necessity for such a performance-based nexus in several ways including the following comments:

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. This, of course, is logical since a purpose of the Federal Milk Order Program is to ensure an adequate supply of milk for fluid use.

A suggestion for "open pooling" where milk can be pooled anywhere has not been adopted, principally because open pooling provides no reasonable assurance that milk will be made available in satisfying the fluid needs of a market. The pooling provisions for the consolidated orders provide a reasonable balance between encouraging handlers to supply milk for fluid use and ensuring orderly marketing by providing a reasonable means for producers within a common marketing area to establish an association with the fluid market.

64 Fed. Reg. 16130 (April 2, 1999); Exh.12, pp.19-20.

This record demonstrates that the current provisions of Order 33 fail to meet this standard. The record further demonstrates that the order, as operating, is a quite different order than the Secretary contemplated in the Final Rule. A few salient points demonstrate these facts. While the final rule anticipated Class I utilization in the range of 58 percent and Class II utilization of 20 percent, the actual utilization experienced has been 38 percent Class I and 11 percent Class II for 2001. (Exh. 5, Table 4) While the Final Rule anticipated that 95 percent of the milk to supply the order would come from the counties of the marketing area, the actual percentage of the pool from those areas has declined to about 70 percent.

Furthermore, large volumes of distant milk are being associated without any performance

in a manner which defies the Final Rule's concept of associating producers from a common marketing area. Milk is being pooled on the order from Kansas, North Dakota, South Dakota, Minnesota, and Wisconsin. From Wisconsin alone, the poolings in 2001 exceed milk pooled from the state of Ohio. In 2001, during the summer months, milk pooled on the order from Iowa, Kansas, North Dakota, South Dakota, Minnesota and Wisconsin exceeded volumes pooled on the order from the principal marketing area states of Indiana and Ohio combined. (Exh. 5, Table 13) It might be one thing if the milk from out of the area was being drawn in to service the market. However, as Exhibit 5, Appendix C, dramatically shows, that milk is not being delivered to the market at all. It is only being pooled on paper, "open" pooling by any other name. In fact, if such milk was delivered regularly to the market, it would lose money. See Exh. 13, Tables 6-8.

The Final Rule's principles of performance-for-the-fluid-market and association from a common marketing area need to be invoked to amend Order 33.

V. PROPOSAL 1 SHOULD BE ADOPTED

Proposal 1 amends the definition of a distributing plant by increasing the required proportion of a distributing plants' operations which must be Class I. The amendment is a protective measure which would tend to conform the order provisions with present marketing conditions. The predecessor orders tended to have higher, and in some cases substantially higher, Class I requirements for distributing plant operations than the current order. (Tr. 263-4) The Final Rule adopted the least restrictive provisions of any predecessor order. This provision, whatever its origin may have been previously, requiring only 30 percent route disposition for a distributing plant, is neither necessary nor appropriate at the present time. In fact it is an open invitation to associate unneeded volumes of milk at distributing plants in the order.

We do not believe that the requested change, to require Class I plants to maintain

utilization of 35 percent during the months of May through July and 40 percent during the remainder of the year is the least bit excessive. There is no evidence in the hearing record to suggest that these changes would constrain the operations of any pool distributing plant. Consequently, the preventive change is important because it will limit the ability of any pool distributing plant to associate producer milk with the plant strictly for purposes of diverting it to non-pool outlets. That is the only purpose of the proposed amendment and, absent a showing (which there was none) that the limit would interfere with the operations of any pool distributing plant, the proposal should be adopted.

VI. THE AMENDMENTS TO POOL SUPPLY PLANT PROVISIONS, ASSEMBLED IN PROPOSAL NO.2, SHOULD BE ADOPTED

A large volume of the distant milk is being associated with Order 33 through pool supply plants. There are four such plants which have come onto the order and are located in the states of Wisconsin and Illinois (Exh. 5, Figure 2). Present performance requirements for pool supply plants allow the pooling of milk through such facilities with little or no performance. These provisions should be amended in four separate respects.

Elimination of the “free ride.” The first element which should be eliminated from the order is the language in existing subsection (c)(4) which allows pools supply plants which are associated with the market during the months of September through February by performance to continue to be associated during the months of March through August without any delivery requirements at all. This so-called “free ride” provision has obviously contributed substantially to distant milk being associated with the market without performance. The market administrator’s statistics show, for example, that volumes of milk from Minnesota, Wisconsin, North Dakota, South Dakota, and Iowa increased substantially in 2000 during the months in the

spring and summer when no performance was required. While we cannot say for certain that such milk was pooled through the distant supply plants, it stands to reason that it must have been for several reasons: first, the plants had the right to associate unlimited volumes without pooling. Therefore, the plant operators had every reason to associate whatever volume of milk they were able to with the plants. Secondly, the plants, having qualified to be “pool plants”, served as a distant base for new producers coming on the order to touch in order to affiliate with the pool. Consequently, the subsequent diversions of any new producers to other locations would have been associated with the supply plants. The simple expedient of eliminating the “free ride” period and requiring performance from all supply plants on a year-round basis at the rate of 30 percent, as currently applies in the shipping months, will close one of the several gaping loopholes in the pooling provisions of this order.

Eliminate qualification by other order deliveries. Proposal 2 also would delete existing subsection (c)(1)(iv) which allows qualifying shipments to be made to other order distributing plants. There is no need for this provision in the current Mideast order and it serves no function; in fact, it undercuts the operations of the order by allowing distant supply plants to deliver to their local market and thereby qualify for pooling in Order 33. The record does not reflect the volumes or destinations of qualifying shipments to other order plants. However, it is quite possible that the Wisconsin supply plants would have qualified to the limit allowable under current order language by shipment of milk to Order 30 fluid plants. This does nothing to meet the Class I needs of the Mideast order and that provision should be eliminated.³ There was no

³ The fact that these deliveries may contribute some Class I utilization to the Order 33 market is not sufficient to continue this provision. In the past, as Mr. Rasch testified, plants in Michigan would have shipped on a seasonal basis to plants in Ohio or Indiana and it was reasonable to allow recognition for those shipments to some degree under the Michigan order. However, those deliveries are now part of Order 33 itself.

opposition at the hearing to eliminating this provision in the order.

Require “net receipts” for supply plant shipments. Proposal 2 also would also add language to test the performance of supply plants by crediting only “net” receipts at pool distributing plants. This language will eliminate the practice of delivering to distributing plants milk which is then brought back and returned to the supply plant. Such transactions net no milk for fluid utilization and should not be credited to the supply plant performance under the order. Supply plant performance should be true, actual performance for the order. The practices involved in pumping milk in and pumping milk out for purposes of qualification (which have been commented upon in less than flattering words by the United States Circuit Court of Appeals for the Seventh Circuit)⁴, should not be allowed.⁵

Nearby milk should not qualify distant supply plants. A final loophole in the supply plant language which is quite important to close is that which presently allows a handler to report the deliveries of producer milk to a distributing plant in Ohio from farms in the state of Ohio, for instance, to be reported as qualifying deliveries for a supply plant in the state of Wisconsin. This is accomplished by the one-time delivery of in area producers to the distant supply plant. By authorizing direct ship milk from any location to be reported as a qualifying shipment for a supply plant at any location, coupled with the other provisions relating to lack of required shipments from pool supply plants in the “free ride” period, it is quite possible for a supply in

⁴ See County Line Cheese Co. v. Lyng, 823 F.2d 1127, 1135 (7th Cir. 1987)(“[A] disinterested observer would have to be forgiven if he found the pumping-in and pumping-out program to be a marvelous example of government nuttiness. . . . I would hate to have the world believe that the judicial branch of government created the necessity for this weird piece of human behavior.” Chief Judge Bauer, concurring)

⁵ Any toughening of the pooling requirements will tend to increase the temptation to pool milk in this fashion. Therefore, the net receipts language is quite important.

Wisconsin to have never shipped a drop of milk to any Order 33 pool distributing plant.⁶ We propose to close this loophole by inserting the following language at the conclusion of Section 7(c)(2)⁷:

Provided, however that if the supply plant is located outside of the marketing area, any such qualifying shipments must be from farms located in the county of the supply plant, or a contiguous county or from any county more distant from the marketing area than the supply plant.

This language will continue to allow the efficiency of direct ship milk from farms in the marketing area in the vicinity of supply plants but prohibit the abuse of qualifying supply plants by shipment of producers that have no relationship to the supply plant.

Summary of supply plant changes. Supply plants under Order 33 may be useful in servicing the needs of the fluid market. However, they will only be useful if they are required to make and do make, actual and substantial deliveries of milk to the fluid market from their milk supply. Any supply, located anywhere is eligible to do this so long as it is done at a rate, 30 percent, which is in line with the markets' needs and it is done on a "net" basis year round. It is not likely that any of the distant supply plants presently on the market will remain on the market when required to perform in this manner because of the intrinsic economics of the transactions. (See Exh. 13, Tables 6-8) However, they have the option to do so and they may share in the market order pool if they perform for the market.

VII. THE PRODUCER MILK PROVISIONS OF THE ORDER SHOULD BE

⁶ Note that milk comes on and off the market in the "free ride" period. (Exh. 5, Table 13.)

⁷ This language was proposed at the hearing (Tr.273) as a modification of the amendments published in the hearing notice. No participant objected to the modification and the Department voiced no objection. We believe that the modification was and is properly within the scope of the notice of the hearing.

AMENDED AS PROPOSED IN PROPOSAL 3

The producer milk provisions of the order should be amended in five separate respects.

A two-day touch base requirement. The present one day touch base provision should be revised to require a two day per month producer touch base. The touch base provision in the order is the minimal provision which requires every producer to demonstrate some association with the order. Presently, delivery of one day's production is all that is required. We propose that the requirement be doubled to require delivery of two days' production. This is a modest, but nevertheless important, requirement to make more meaningful the minimum association with the market. The deliveries, to meet the touch base requirement, must be to a pool plants. This requirement is much more in line with that of higher utilization markets such as Order 5 and Order 7 which are more like Order 33 than is Order 30, for instance.

The mandatory touch base months. August should be added to the mandatory two day touch base months for all producers. August is a high fluid milk demand month and, thus, this molds the touch base requirements to the market's needs. Furthermore, the order should be amended to require that producers who come on the market after the performance period of August through November meet the touch base requirements during December through July in order to remain part of the market. This modest but important change in minimum demands of market association will increase the basic association with the market that is required of all milk. It will not be burdensome in the least for any producers who are associated with a supply plant that is actually performing, or with a distributing plant, or with a performing cooperative. It will, however, discourage the free and open association, without performance, of milk which is presently accommodated by the one day's touch base and unlimited diversion requirements which now prevail.

Diversions limits. The diversion limits which allow pool milk to be sent directly to non-pool manufacturing plants should be revised to provide limits every month. The limits should be 60 percent during the months of August through February, and 70 percent during the months of March through July. These diversion limits will allow Order 33 to efficiently carry a fully adequate reserved supply. This amendment will, however, eliminate the present open-door allowance of unlimited diversions during the Spring months. There is little doubt that the unlimited diversion provisions presently in the order has resulted in accommodating large amounts of non-performing milk on the order.

Diversions from distributing plants. Language should be added to section 13(d)(4) to eliminate milk diverted to other pool plants from the base from which distributing plants can divert their allowable percentage of milk. This hyper-arcane loophole in the order language has allowed distributing plants to pyramid diversions upon other diversions as described by Mr. Hollon in Exh. 13, Table 10. The addition of the language “or which is diverted to another pool plant”, as testified to by Mr. Rasch, will alleviate this problem. This will make the diversion limitation for distributing plants a real percentage.

Summary regarding producer milk. The record establishes that the existing producer milk language allows wide-open pooling of distant milk without any performance accountability to speak of. Proposal 3 closes that language by increasing the touch base provisions, eliminating the touch base free months, eliminating the months of unlimited diversion while establishing a 70 percent maximum limit on diversions in the Spring months, and tightening the definition of the base for diversion volumes from distributing plants. All of these amendments to the producer milk definition are reasonable and will conform the performance requirements of the order to the market’s needs.

It is neither necessary, nor desirable, to increase the touch base requirements beyond two days, as requested in Proposal 7. A four day touch base requirement would in all likelihood require some inefficient and uneconomic deliveries from producers who serve as regular supplemental supply sources for this market. The other changes to the pooling requirements suggested by these cooperatives, in conjunction with a two day touch base requirement will conform the pooling provisions to the marketing conditions in the area.

VIII. PROPOSAL 5 SHOULD BE ADOPTED AND THE SPLIT PLANT PROVISIONS OF THE ORDER ELIMINATED

Proposal 5 would eliminate subpart (h)(7) of the order's pool plant definitions which currently authorizes the pooling of "split plants" on the order. A split plant is a physical facility which is segregated, for purposes of pooling milk, into a "pool" portion and a "non-pool" portion. In effect, the regulations treat the single facility as two separate plants for pooling purposes. This serves no useful purpose in Order 33⁸ today and is the actual or potential source of substantial paper pooling abuses. Consequently it should be eliminated.

A split plant makes it quite easy for the operator of a distant plant to establish a pool supply plant by segregating limited volumes to the "pool" side of the plant and making the required deliveries to qualify that "pool" facility. Once the plant is qualified as a pool plant on the order, it is a distant outpost for producers to touch base at a pool plant without approaching the marketing area. It also then serves as a point for diversions of distant producer milk to non-pool plants. Whatever the origin of the split plant provisions in these orders, it has no place today.

⁸ Note that milk comes on and off the market in the "free ride" period. (Exh. 5, Table 13.) Split plants may serve a useful purpose in other orders, such as Order 30 perhaps, and we are not implying that they never have a valid economic function.

There was no evidence presented at the hearing to suggest that the split plants serve any useful economic purpose. Lacking a useful function, and being the clear source of paper-pooling mischief, the provision should be eliminated and proposal 5 adopted.

IX. PROPOSAL 8 SHOULD NOT BE ADOPTED

These cooperatives oppose the adoption of Proposal 8 which is an attempt by the proponent fluid milk handlers to constrain the ability of an operator of a supply plant to pool or depool the plant for economic purposes. This proposal should not be adopted for a number of reasons.

First, the proposal by being addressed to supply plants only would only limit plant pooling, to the extent it was effective at all. It would not limit the depooling of diversions to manufacturing plants, including such diversions by distributing plant operators. Consequently, the fluid handlers want the ability, under their proposal, to freely pool or depool milk associated with their plants while tying the hands of supply plant operators, particularly cooperatives, from pooling or depooling their plants for the very same reasons. That inequitable proposal should not be adopted.

Furthermore, the attempt to address the phenomenon of depooling is an attack upon a by-product of advance pricing for Class I⁹, demanded by the fluid handlers. It is only because of advance pricing that the basis of depooling manufacturing classes ever arises. Consequently, it is our position that the fluid handlers should not be able to require other handlers to suffer injury which occurs solely because of granting a benefit to the fluid handlers.

Finally, it would appear that the proposal has actually been addressed at a problem which

⁹ We fully support advance Class I pricing which furthers orderly marketing in all federal orders. We do not want our comments to be interpreted otherwise.

arises out of the operation of the Pennsylvania Milk Marketing Board individual handler pool system, and not because of any federal order dynamics. Consequently, it is aimed at something that the federal order does not, and cannot, address and should not serve as a basis for any amendment to the order.

X. PROPOSAL 4 TO AMEND THE PARTIAL PAYMENT REQUIREMENTS OF THE ORDER SHOULD BE ADOPTED

The payment provisions for Order 33 presently provide that partial payment be made to producers for their milk deliveries during the first fifteen (15) days of the month at a rate equal to the lowest class price for the prior month. Experience since January 1, 2000 under the class prices now prevailing demonstrates that that rate results in a payment to dairy farmers which is lower than it has been historically and it should therefore be increased appropriately. The change in Class 3 and 4 prices under federal order reform, coupled with the use of the "higher of" for the Class I mover has led to an increasing spread between the "effective" blend price and the lowest class price. There is nothing in the federal order reform final decision to suggest that this was intended; and there has been no argument advanced to support a reduction. Consequently, the order should be changed to increase the rate of payment required of handlers pursuant to 7 C.F.R. § 1033.73. These cooperatives support revision of the rate of payment to require payment at the rate of 105percent of the prior month's lowest class price.

Exh. 22¹⁰ demonstrates the erosion of the effective rate of partial payments to producers under Order 33 since January 2000. For the period from January 1997 through August 2001, fifty-six (56) months, the monthly average spread between the Class 3 price and the blend price

¹⁰ The attached document (Exh. C) is the exhibit as revised post-hearing to correct the inadvertent computational errors noted at the hearing. (TR. 498-499)

partial payments at rates higher than proposed by the cooperatives here. Furthermore, Leprino's concern that a manufacturer might have to anticipate funds that it will be receiving from the pool, in order to make the advance payment, may be true (with or without the requested amendments) but might well just be understood as a price that a manufacturing use handler must pay for the right to participate in the pool which allows it to have the benefit of marketwide pooling of use values in its procurement of milk for manufacturing uses.

Neither the objections of the handlers group, nor those of one cheese manufacturer, should be sustained. Proposal 4, as revised to the rate of 105percent in this brief, should be adopted to restore to dairy farmers a rate of partial payment for their monthly milk deliveries which is close to that which was applicable pre-federal order reform.

XI. THIS DECISION SHOULD BE RENDERED ON AN EMERGENCY BASIS, TIMED IN CONJUNCTION WITH THE HEARINGS ON ORDERS 30 AND 32

These cooperatives support the omission of a recommended decision from this hearing. The issues are important and urgent to the dairy farmers serving the order. In light of the sharply declining commodity prices, the future months' blend prices are very important to Order 33 farmers. Furthermore, by March, regardless of the relationship of class prices, the order will be in the "free ride" period and a yet-steeper decline in the blend price will occur with the free association of huge quantities of out-of-area milk, as occurred last year. Thus, prompt relief on the pooling issues is appropriate.

However, we remain concerned that the timing of implementation of the decision be done with consideration for the implementation of decisions on the hearings for Orders 30 and 32 so that the common pooling issues and concerns not be pushed from one order to the other solely by virtue of the administrative process.

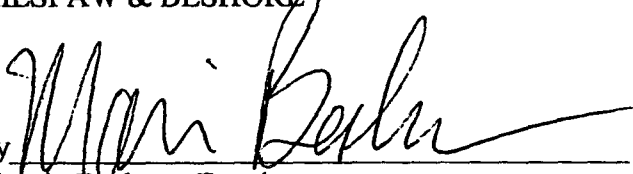
XII. CONCLUSION

DFA, MMPA, and Prairie Farms respectfully request that the Department adopt the amendments to Order 33 which will restore it to a performance-oriented pooling system in accordance with the principles for federal order markets enunciated in the Final Rule.

In addition, the partial payment rate to producers should be amended to approximately restore it to the pre-reform payment rate.

RESPECTFULLY SUBMITTED,

MILSPA W & BESHORE

By 

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Attorneys for Dairy Farmers of America, Inc.
(DFA), Michigan Milk Producers Association
(MMPA), and Prairie Farms Dairy, Inc.

Dated: December 12, 2001

Proposed language Order 33 Pool plant: 7 CFR §1033.7.

(Proposals 1, 2, and 5, as published in the hearing notice and including modifications at the hearing)

Sec. 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, but excluding a plant specified in paragraph (h) of this section. The pooling standards described in paragraphs (c) through (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or Sec. 1000.7(b) of any other Federal milk order, from which during the months of August through April not less than 40 percent, and during the months of May through July not less than 35 percent, ~~during the month 30 percent or more~~ of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area.

(b) Any distributing plant located in the marketing area which during the month processed at least 30 percent of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) into ultra-pasteurized or aseptically-processed fluid milk products.

(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 Sec. 1033.12(b)) and handlers described in Sec. 1033.9(c), as reported in Sec. 1033.30(a), is not less than 30 percent of the milk received from dairy farmers, including milk diverted pursuant to Sec. 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 Sec. 1033.7(a) and (b), shall count as qualifying shipments for the purpose of meeting the increased shipments: (i) Pool plants described in Sec. 1033.7(a) and (b); (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 Sec. 1033.13(c) as up to 90 percent of the supply plant's qualifying shipments; provided however that if the supply plant is located outside of the

marketing area, any such qualifying shipments must be from farms located in the county of the supply plant, or a contiguous county or from any county more distant from the marketing area than the supply plant.

(3) Concentrated milk transferred from the supply plant to a distributing plant for an agreed-upon use other than Class I shall be excluded from the supply plant's shipments in computing the supply plant's shipping percentage.

(4) Shipments used in determining qualifying percentages shall be milk transferred or diverted and physically received by distributing pool plants, less any transfers or diversions of bulk fluid milk products from such distributing pool plants. 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 (g) 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 receipt 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.—

(5) 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 3 immediately preceding months.

(d) A plant operated by a cooperative association if, during the month, 30 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 30-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 paragraph (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 qualify for pooling if 2 or more plants operated by one or more handlers meet 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, or was a pool supply plant for each of the 3 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 Sec. 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 5th 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 applicable shipping percentages of paragraphs (c) through (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 request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. 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. Any decision to revise an applicable shipping percentage must be issued in writing at least one day before the effective date.

(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 Sec. 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 3 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 route disposition 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 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 the order in this part, 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 3 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 2 consecutive months.

*Ex 22
10-24-01 em*

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

In the Matter of	:
Milk In The Mideast	: Docket Nos.:
Marketing Area	: AO-166-A04 et al;
	: DA-01-04
	:

**EXHIBITS
Proposals 4**

**Elvin Hollon
Dairy Farmers of America, Inc.**

**October 23, 2001
Wadsworth, Ohio**

Table 7 Page 1 & 2

Comparison of Advance Price Alternatives

	Class III - A or IV	Class III	Lowest Price	Class III @5%	Class III @6%	Class III @7%	Class III @8%	Class III @9%	Class III @10%	Blend Price
Jan-97	\$ 11.50	\$ 11.94	\$ 11.50	\$ 12.08	\$ 12.19	\$ 12.31	\$ 12.42	\$ 12.54	\$ 12.65	\$ 12.85
Feb	\$ 12.36	\$ 12.46	\$ 12.36	\$ 12.98	\$ 13.10	\$ 13.23	\$ 13.35	\$ 13.47	\$ 13.60	\$ 12.97
Mar	\$ 12.78	\$ 12.49	\$ 12.49	\$ 13.11	\$ 13.24	\$ 13.36	\$ 13.49	\$ 13.61	\$ 13.74	\$ 13.27
Apr	\$ 12.10	\$ 11.44	\$ 11.44	\$ 12.01	\$ 12.13	\$ 12.24	\$ 12.36	\$ 12.47	\$ 12.58	\$ 13.04
May	\$ 11.56	\$ 10.70	\$ 10.70	\$ 11.24	\$ 11.34	\$ 11.45	\$ 11.56	\$ 11.66	\$ 11.77	\$ 12.63
Jun	\$ 12.22	\$ 10.74	\$ 10.74	\$ 11.28	\$ 11.38	\$ 11.49	\$ 11.60	\$ 11.71	\$ 11.81	\$ 12.12
Jul	\$ 12.06	\$ 10.86	\$ 10.86	\$ 11.40	\$ 11.51	\$ 11.62	\$ 11.73	\$ 11.84	\$ 11.95	\$ 11.87
Aug	\$ 11.88	\$ 12.07	\$ 11.88	\$ 12.47	\$ 12.59	\$ 12.71	\$ 12.83	\$ 12.95	\$ 13.07	\$ 12.44
Sep	\$ 11.87	\$ 12.79	\$ 11.87	\$ 12.46	\$ 12.58	\$ 12.70	\$ 12.82	\$ 12.94	\$ 13.06	\$ 12.74
Oct	\$ 13.40	\$ 12.83	\$ 12.83	\$ 13.47	\$ 13.60	\$ 13.73	\$ 13.86	\$ 13.98	\$ 14.11	\$ 13.62
Nov	\$ 14.01	\$ 12.96	\$ 12.96	\$ 13.61	\$ 13.74	\$ 13.87	\$ 14.00	\$ 14.13	\$ 14.26	\$ 13.97
Dec	\$ 12.48	\$ 13.29	\$ 12.46	\$ 13.08	\$ 13.21	\$ 13.33	\$ 13.46	\$ 13.58	\$ 13.71	\$ 14.09
Jan-98	\$ 12.04	\$ 13.25	\$ 12.04	\$ 12.64	\$ 12.76	\$ 12.88	\$ 13.00	\$ 13.12	\$ 13.24	\$ 14.11
Feb	\$ 12.89	\$ 13.32	\$ 12.89	\$ 13.53	\$ 13.66	\$ 13.79	\$ 13.92	\$ 14.05	\$ 14.18	\$ 14.34
Mar	\$ 12.67	\$ 12.81	\$ 12.67	\$ 13.30	\$ 13.43	\$ 13.56	\$ 13.68	\$ 13.81	\$ 13.94	\$ 14.03
Apr	\$ 12.88	\$ 12.01	\$ 12.01	\$ 12.61	\$ 12.73	\$ 12.85	\$ 12.97	\$ 13.09	\$ 13.21	\$ 13.64
May	\$ 13.96	\$ 10.88	\$ 10.88	\$ 11.42	\$ 11.53	\$ 11.64	\$ 11.75	\$ 11.86	\$ 11.97	\$ 12.79
Jun	\$ 15.38	\$ 13.10	\$ 13.10	\$ 13.76	\$ 13.89	\$ 14.02	\$ 14.15	\$ 14.28	\$ 14.41	\$ 13.68
Jul	\$ 15.59	\$ 14.77	\$ 14.77	\$ 15.51	\$ 15.66	\$ 15.80	\$ 15.95	\$ 16.10	\$ 16.25	\$ 12.99
Aug	\$ 16.52	\$ 14.99	\$ 14.99	\$ 15.74	\$ 15.89	\$ 16.04	\$ 16.19	\$ 16.34	\$ 16.49	\$ 14.98
Sep	\$ 19.81	\$ 15.10	\$ 15.10	\$ 15.86	\$ 16.01	\$ 16.16	\$ 16.31	\$ 16.46	\$ 16.61	\$ 16.13
Oct	\$ 18.13	\$ 16.04	\$ 16.04	\$ 16.84	\$ 17.00	\$ 17.16	\$ 17.32	\$ 17.48	\$ 17.64	\$ 16.63
Nov	\$ 14.87	\$ 16.84	\$ 14.87	\$ 15.61	\$ 15.76	\$ 15.91	\$ 16.06	\$ 16.21	\$ 16.36	\$ 16.83
Dec	\$ 13.48	\$ 17.34	\$ 13.48	\$ 14.15	\$ 14.29	\$ 14.42	\$ 14.56	\$ 14.69	\$ 14.83	\$ 17.59
Jan-99	\$ 13.45	\$ 16.27	\$ 13.45	\$ 14.12	\$ 14.26	\$ 14.39	\$ 14.53	\$ 14.66	\$ 14.80	\$ 17.35
Feb	\$ 12.71	\$ 10.27	\$ 10.27	\$ 10.78	\$ 10.89	\$ 10.99	\$ 11.09	\$ 11.19	\$ 11.30	\$ 14.79
Mar	\$ 12.56	\$ 11.62	\$ 11.62	\$ 12.20	\$ 12.32	\$ 12.43	\$ 12.55	\$ 12.67	\$ 12.78	\$ 14.86
Apr	\$ 11.26	\$ 11.81	\$ 11.26	\$ 11.82	\$ 11.94	\$ 12.05	\$ 12.16	\$ 12.27	\$ 12.39	\$ 12.00
May	\$ 11.53	\$ 11.26	\$ 11.26	\$ 11.82	\$ 11.94	\$ 12.05	\$ 12.16	\$ 12.27	\$ 12.39	\$ 12.37
Jun	\$ 13.14	\$ 11.42	\$ 11.42	\$ 11.99	\$ 12.11	\$ 12.22	\$ 12.33	\$ 12.45	\$ 12.56	\$ 12.67
Jul	\$ 12.79	\$ 13.59	\$ 12.79	\$ 13.43	\$ 13.56	\$ 13.69	\$ 13.81	\$ 13.94	\$ 14.07	\$ 13.13
Aug	\$ 12.77	\$ 15.79	\$ 12.77	\$ 13.41	\$ 13.54	\$ 13.66	\$ 13.79	\$ 13.92	\$ 14.05	\$ 13.48
Sep	\$ 12.67	\$ 16.26	\$ 12.67	\$ 13.31	\$ 13.43	\$ 13.56	\$ 13.69	\$ 13.81	\$ 13.94	\$ 15.39
Oct	\$ 11.83	\$ 11.49	\$ 11.49	\$ 12.06	\$ 12.18	\$ 12.29	\$ 12.41	\$ 12.52	\$ 12.64	\$ 14.64
Nov	\$ 11.54	\$ 9.79	\$ 9.79	\$ 10.28	\$ 10.38	\$ 10.48	\$ 10.57	\$ 10.67	\$ 10.77	\$ 14.19
Dec	\$ 10.87	\$ 9.63	\$ 9.63	\$ 10.11	\$ 10.21	\$ 10.30	\$ 10.40	\$ 10.50	\$ 10.59	\$ 11.56

Jan-00	\$ 10.73	\$ 10.05	\$ 10.05	\$ 10.55	\$ 10.65	\$ 10.75	\$ 10.85	\$ 10.95	\$ 11.06	\$ 11.23
Feb	\$ 10.80	\$ 9.54	\$ 9.54	\$ 10.02	\$ 10.11	\$ 10.21	\$ 10.30	\$ 10.40	\$ 10.49	\$ 11.00
Mar	\$ 11.00	\$ 9.54	\$ 9.54	\$ 10.02	\$ 10.11	\$ 10.21	\$ 10.30	\$ 10.40	\$ 10.49	\$ 10.91
Apr	\$ 11.38	\$ 9.41	\$ 9.41	\$ 9.88	\$ 9.97	\$ 10.07	\$ 10.16	\$ 10.26	\$ 10.35	\$ 10.84
May	\$ 11.91	\$ 9.37	\$ 9.37	\$ 9.84	\$ 9.93	\$ 10.03	\$ 10.12	\$ 10.21	\$ 10.31	\$ 10.96
Jun	\$ 12.38	\$ 9.46	\$ 9.46	\$ 9.93	\$ 10.03	\$ 10.12	\$ 10.22	\$ 10.31	\$ 10.41	\$ 11.16
Jul	\$ 11.87	\$ 10.66	\$ 10.66	\$ 11.19	\$ 11.30	\$ 11.41	\$ 11.51	\$ 11.62	\$ 11.73	\$ 11.95
Aug	\$ 11.87	\$ 10.13	\$ 10.13	\$ 10.64	\$ 10.74	\$ 10.84	\$ 10.94	\$ 11.04	\$ 11.14	\$ 11.61
Sep	\$ 11.94	\$ 10.76	\$ 10.76	\$ 11.30	\$ 11.41	\$ 11.51	\$ 11.62	\$ 11.73	\$ 11.84	\$ 11.97
Oct	\$ 11.81	\$ 10.02	\$ 10.02	\$ 10.52	\$ 10.62	\$ 10.72	\$ 10.82	\$ 10.92	\$ 11.02	\$ 11.40
Nov	\$ 13.00	\$ 8.57	\$ 8.57	\$ 9.00	\$ 9.08	\$ 9.17	\$ 9.26	\$ 9.34	\$ 9.43	\$ 10.85
Dec	\$ 13.27	\$ 9.37	\$ 9.37	\$ 9.84	\$ 9.93	\$ 10.03	\$ 10.12	\$ 10.21	\$ 10.31	\$ 11.38
Jan-01	\$ 12.13	\$ 9.99	\$ 9.99	\$ 10.49	\$ 10.59	\$ 10.69	\$ 10.79	\$ 10.89	\$ 10.99	\$ 11.85
Feb	\$ 12.70	\$ 10.27	\$ 10.27	\$ 10.78	\$ 10.89	\$ 10.99	\$ 11.09	\$ 11.19	\$ 11.30	\$ 11.82
Mar	\$ 13.48	\$ 11.42	\$ 11.42	\$ 11.99	\$ 12.11	\$ 12.22	\$ 12.33	\$ 12.45	\$ 12.56	\$ 12.74
Apr	\$ 14.41	\$ 12.06	\$ 12.06	\$ 12.66	\$ 12.78	\$ 12.90	\$ 13.02	\$ 13.15	\$ 13.27	\$ 13.42
May	\$ 15.04	\$ 13.83	\$ 13.83	\$ 14.52	\$ 14.66	\$ 14.80	\$ 14.94	\$ 15.07	\$ 15.21	\$ 14.80
June	\$ 15.33	\$ 15.02	\$ 15.02	\$ 15.77	\$ 15.92	\$ 16.07	\$ 16.22	\$ 16.37	\$ 16.52	\$ 15.79
July	\$ 14.81	\$ 15.46	\$ 14.81	\$ 15.55	\$ 15.70	\$ 15.85	\$ 15.99	\$ 16.14	\$ 16.29	\$ 16.14
August	\$ 15.06	\$ 15.55	\$ 15.06	\$ 15.81	\$ 15.98	\$ 16.11	\$ 16.26	\$ 16.42	\$ 16.57	\$ 16.29
Sep	\$ 15.59	\$ 15.90								
Oct	\$ 15.04	\$ 13.83								
Nov	\$ 15.04	\$ 13.83								
Dec	\$ 15.04	\$ 13.83								

Jan-00	\$ 1.60	\$ 1.12	\$ 1.02	\$ 0.93	\$ 0.83	\$ 0.73	\$ 0.64
Feb	\$ 0.95	\$ 0.45	\$ 0.35	\$ 0.25	\$ 0.15	\$ 0.05	(0.06)
Mar	\$ 1.37	\$ 0.89	\$ 0.80	\$ 0.70	\$ 0.61	\$ 0.51	0.42
Apr	\$ 1.30	\$ 0.82	\$ 0.73	\$ 0.63	\$ 0.54	\$ 0.44	0.35
May	\$ 1.55	\$ 1.08	\$ 0.99	\$ 0.89	\$ 0.80	\$ 0.70	0.61
Jun	\$ 1.79	\$ 1.32	\$ 1.23	\$ 1.13	\$ 1.04	\$ 0.95	0.85
Jul	\$ 2.49	\$ 2.02	\$ 1.92	\$ 1.83	\$ 1.73	\$ 1.64	1.54
Aug	\$ 0.95	\$ 0.42	\$ 0.31	\$ 0.20	\$ 0.10	(0.01)	(0.12)
Sep	\$ 1.84	\$ 1.33	\$ 1.23	\$ 1.13	\$ 1.03	\$ 0.93	0.83
Oct	\$ 0.64	\$ 0.10	(0.01)	(0.11)	(0.22)	(0.33)	(0.44)
Nov	\$ 0.83	\$ 0.33	\$ 0.23	\$ 0.13	\$ 0.03	(0.07)	(0.17)
Dec	\$ 2.81	\$ 2.38	\$ 2.30	\$ 2.21	\$ 2.12	\$ 2.04	1.95
Jan-01	\$ 2.48	\$ 2.01	\$ 1.92	\$ 1.82	\$ 1.73	\$ 1.64	1.54
Feb	\$ 1.83	\$ 1.33	\$ 1.23	\$ 1.13	\$ 1.03	\$ 0.93	0.83
Mar	\$ 2.47	\$ 1.96	\$ 1.85	\$ 1.75	\$ 1.65	\$ 1.55	1.44
Apr	\$ 2.00	\$ 1.43	\$ 1.31	\$ 1.20	\$ 1.09	\$ 0.97	0.86
May	\$ 2.74	\$ 2.14	\$ 2.02	\$ 1.90	\$ 1.78	\$ 1.65	1.53
June	\$ 1.96	\$ 1.27	\$ 1.13	\$ 0.99	\$ 0.85	\$ 0.72	0.58
July	\$ 1.12	\$ 0.37	\$ 0.22	\$ 0.07	(0.08)	(0.23)	(0.38)
August	\$ 1.48	\$ 0.74	\$ 0.59	\$ 0.44	\$ 0.30	\$ 0.15	(0.00)

All 55	Average	\$ 1.59	\$ 1.00	\$ 0.88	\$ 0.76	\$ 0.65	\$ 0.53	0.41
All 55	Minimum	\$ (0.11)	\$ (0.77)	\$ (0.90)	\$ (1.03)	\$ (1.16)	\$ (1.29)	(1.42)
All 55	Maximum	\$ 4.59	\$ 4.08	\$ 3.97	\$ 3.87	\$ 3.77	\$ 3.67	3.56
First 36	Average	\$ 1.52	\$ 0.90	\$ 0.78	\$ 0.65	\$ 0.53	\$ 0.40	0.28
First 36	Minimum	\$ (0.11)	\$ (0.77)	\$ (0.90)	\$ (1.03)	\$ (1.16)	\$ (1.29)	(1.42)
First 36	Maximum	\$ 4.59	\$ 4.08	\$ 3.97	\$ 3.87	\$ 3.77	\$ 3.67	3.56
Last 20	Average	\$ 1.71	\$ 1.18	\$ 1.07	\$ 0.96	\$ 0.85	\$ 0.75	0.64
Last 20	Minimum	\$ 0.64	\$ 0.10	(0.01)	(0.11)	(0.22)	(0.33)	(0.44)
Last 20	Maximum	\$ 2.81	\$ 2.38	\$ 2.30	\$ 2.21	\$ 2.12	\$ 2.04	1.95

Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII
 @5% @6% @7% @8% @9% @10%

Table 7 Page 3 & 4

Differences Between This Months Blend And Last Months Class III Price

	Blend - CIII	Blend - CIII	Blend - CIII	Blend - CIII	Blend - CIII	Blend - CIII	Blend - CIII
	@5%	@6%	@7%	@8%	@9%	@10%	
in all comparisons this month Blend less last month CIII							
Jan-97							
Feb	\$ 1.47	\$ 0.90	\$ 0.78	\$ 0.66	\$ 0.55	\$ 0.44	\$ 0.32
Mar	\$ 0.91	\$ 0.29	\$ 0.17	\$ 0.04	\$ (0.08)	\$ (0.20)	\$ (0.33)
Apr	\$ 0.55	\$ (0.07)	\$ (0.20)	\$ (0.32)	\$ (0.45)	\$ (0.57)	\$ (0.70)
May	\$ 1.19	\$ 0.62	\$ 0.50	\$ 0.39	\$ 0.27	\$ 0.16	\$ 0.05
Jun	\$ 1.42	\$ 0.89	\$ 0.78	\$ 0.67	\$ 0.56	\$ 0.46	\$ 0.35
Jul	\$ 1.13	\$ 0.59	\$ 0.49	\$ 0.38	\$ 0.27	\$ 0.16	\$ 0.06
Aug	\$ 1.58	\$ 1.04	\$ 0.93	\$ 0.82	\$ 0.71	\$ 0.60	\$ 0.49
Sep	\$ 0.86	\$ 0.27	\$ 0.15	\$ 0.03	\$ (0.09)	\$ (0.21)	\$ (0.33)
Oct	\$ 1.75	\$ 1.16	\$ 1.04	\$ 0.92	\$ 0.80	\$ 0.68	\$ 0.56
Nov	\$ 1.14	\$ 0.50	\$ 0.37	\$ 0.24	\$ 0.11	\$ (0.01)	\$ (0.14)
Dec	\$ 1.13	\$ 0.48	\$ 0.35	\$ 0.22	\$ 0.09	\$ (0.04)	\$ (0.17)
Jan-98							
Jan-98	\$ 1.65	\$ 1.03	\$ 0.90	\$ 0.78	\$ 0.65	\$ 0.53	\$ 0.40
Feb	\$ 2.30	\$ 1.70	\$ 1.58	\$ 1.46	\$ 1.34	\$ 1.22	\$ 1.10
Mar	\$ 1.14	\$ 0.50	\$ 0.37	\$ 0.24	\$ 0.11	\$ (0.02)	\$ (0.15)
Apr	\$ 0.97	\$ 0.34	\$ 0.21	\$ 0.08	\$ (0.04)	\$ (0.17)	\$ (0.30)
May	\$ 0.78	\$ 0.18	\$ 0.06	\$ (0.06)	\$ (0.18)	\$ (0.30)	\$ (0.42)
Jun	\$ 2.80	\$ 2.26	\$ 2.15	\$ 2.04	\$ 1.93	\$ 1.82	\$ 1.71
Jul	\$ (0.11)	\$ (0.77)	\$ (0.90)	\$ (1.03)	\$ (1.16)	\$ (1.29)	\$ (1.42)
Aug	\$ 0.21	\$ (0.53)	\$ (0.68)	\$ (0.82)	\$ (0.97)	\$ (1.12)	\$ (1.27)
Sep	\$ 1.14	\$ 0.39	\$ 0.24	\$ 0.09	\$ (0.06)	\$ (0.21)	\$ (0.36)
Oct	\$ 1.53	\$ 0.77	\$ 0.62	\$ 0.47	\$ 0.32	\$ 0.17	\$ 0.02
Nov	\$ 0.79	\$ (0.01)	\$ (0.17)	\$ (0.33)	\$ (0.49)	\$ (0.65)	\$ (0.81)
Dec	\$ 2.72	\$ 1.98	\$ 1.83	\$ 1.68	\$ 1.53	\$ 1.38	\$ 1.23
Jan-99							
Jan-99	\$ 3.87	\$ 3.20	\$ 3.06	\$ 2.93	\$ 2.79	\$ 2.66	\$ 2.52
Feb	\$ 1.34	\$ 0.67	\$ 0.53	\$ 0.40	\$ 0.26	\$ 0.13	\$ (0.01)
Mar	\$ 4.59	\$ 4.08	\$ 3.97	\$ 3.87	\$ 3.77	\$ 3.67	\$ 3.56
Apr	\$ 0.38	\$ (0.20)	\$ (0.32)	\$ (0.43)	\$ (0.55)	\$ (0.67)	\$ (0.78)
May	\$ 1.11	\$ 0.55	\$ 0.43	\$ 0.32	\$ 0.21	\$ 0.10	\$ (0.02)
Jun	\$ 1.41	\$ 0.85	\$ 0.73	\$ 0.62	\$ 0.51	\$ 0.40	\$ 0.28
Jul	\$ 1.71	\$ 1.14	\$ 1.02	\$ 0.91	\$ 0.80	\$ 0.68	\$ 0.57
Aug	\$ 0.69	\$ 0.05	\$ (0.08)	\$ (0.21)	\$ (0.33)	\$ (0.46)	\$ (0.59)
Sep	\$ 2.62	\$ 1.98	\$ 1.85	\$ 1.73	\$ 1.60	\$ 1.47	\$ 1.34
Oct	\$ 1.97	\$ 1.33	\$ 1.21	\$ 1.08	\$ 0.95	\$ 0.83	\$ 0.70
Nov	\$ 2.70	\$ 2.13	\$ 2.01	\$ 1.90	\$ 1.78	\$ 1.67	\$ 1.55
Dec	\$ 1.77	\$ 1.28	\$ 1.18	\$ 1.08	\$ 0.99	\$ 0.89	\$ 0.79

Jan-00	\$	1.60	\$	1.12	\$	1.02	\$	0.93	\$	0.83	\$	0.73	\$	0.64
Feb	\$	0.95	\$	0.45	\$	0.35	\$	0.25	\$	0.15	\$	0.05	\$	(0.06)
Mar	\$	1.37	\$	0.89	\$	0.80	\$	0.70	\$	0.61	\$	0.51	\$	0.42
Apr	\$	1.30	\$	0.82	\$	0.73	\$	0.63	\$	0.54	\$	0.44	\$	0.35
May	\$	1.55	\$	1.08	\$	0.99	\$	0.89	\$	0.80	\$	0.70	\$	0.61
Jun	\$	1.79	\$	1.32	\$	1.23	\$	1.13	\$	1.04	\$	0.95	\$	0.85
Jul	\$	2.49	\$	2.02	\$	1.92	\$	1.83	\$	1.73	\$	1.64	\$	1.54
Aug	\$	0.95	\$	0.42	\$	0.31	\$	0.20	\$	0.10	\$	(0.01)	\$	(0.12)
Sep	\$	1.84	\$	1.33	\$	1.23	\$	1.13	\$	1.03	\$	0.93	\$	0.83
Oct	\$	0.64	\$	0.10	\$	(0.01)	\$	(0.11)	\$	(0.22)	\$	(0.33)	\$	(0.44)
Nov	\$	0.83	\$	0.33	\$	0.23	\$	0.13	\$	0.03	\$	(0.07)	\$	(0.17)
Dec	\$	2.81	\$	2.38	\$	2.30	\$	2.21	\$	2.12	\$	2.04	\$	1.95
Jan-01	\$	2.48	\$	2.01	\$	1.92	\$	1.82	\$	1.73	\$	1.64	\$	1.54
Feb	\$	1.83	\$	1.33	\$	1.23	\$	1.13	\$	1.03	\$	0.93	\$	0.83
Mar	\$	2.47	\$	1.96	\$	1.85	\$	1.75	\$	1.65	\$	1.55	\$	1.44
Apr	\$	2.00	\$	1.43	\$	1.31	\$	1.20	\$	1.09	\$	0.97	\$	0.86
May	\$	2.74	\$	2.14	\$	2.02	\$	1.90	\$	1.78	\$	1.65	\$	1.53
June	\$	1.96	\$	1.27	\$	1.13	\$	0.99	\$	0.85	\$	0.72	\$	0.58
July	\$	1.12	\$	0.37	\$	0.22	\$	0.07	\$	(0.08)	\$	(0.23)	\$	(0.38)
August	\$	1.48	\$	0.74	\$	0.59	\$	0.44	\$	0.30	\$	0.15	\$	(0.00)

All 55	Average	\$	1.59	\$	1.00	\$	0.88	\$	0.76	\$	0.65	\$	0.53	\$	0.41
All 55	Minimum	\$	(0.11)	\$	(0.77)	\$	(0.90)	\$	(1.03)	\$	(1.16)	\$	(1.29)	\$	(1.42)
All 55	Maximum	\$	4.59	\$	4.08	\$	3.97	\$	3.87	\$	3.77	\$	3.67	\$	3.56
First 36	Average	\$	1.52	\$	0.90	\$	0.78	\$	0.65	\$	0.53	\$	0.40	\$	0.28
First 36	Minimum	\$	(0.11)	\$	(0.77)	\$	(0.90)	\$	(1.03)	\$	(1.16)	\$	(1.29)	\$	(1.42)
First 36	Maximum	\$	4.59	\$	4.08	\$	3.97	\$	3.87	\$	3.77	\$	3.67	\$	3.56
Last 20	Average	\$	1.71	\$	1.18	\$	1.07	\$	0.96	\$	0.85	\$	0.75	\$	0.64
Last 20	Minimum	\$	0.64	\$	0.10	\$	(0.01)	\$	(0.11)	\$	(0.22)	\$	(0.33)	\$	(0.44)
Last 20	Maximum	\$	2.81	\$	2.38	\$	2.30	\$	2.21	\$	2.12	\$	2.04	\$	1.95

Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII
 @5% @6% @7% @8% @9% @10%

Table 7 Page 5 & 6

Percentage Class III Divided by the Blend Price

CIII/Blend	CIII/Blend @5%	CIII/Blend @6%	CIII/Blend @7%	CIII/Blend @8%	CIII/Blend @9%	CIII/Blend @10%
----- in all comparisons this month Blend less last month CIII -----						
89%	93%	94%	95%	96%	97%	98%
93%	98%	99%	100%	101%	102%	102%
96%	101%	102%	102%	103%	104%	105%
91%	95%	96%	97%	98%	99%	100%
88%	93%	94%	94%	95%	96%	97%
90%	95%	96%	97%	98%	99%	100%
87%	92%	93%	93%	94%	95%	96%
93%	98%	99%	100%	101%	102%	103%
87%	92%	92%	93%	94%	95%	96%
92%	96%	97%	98%	99%	100%	101%
92%	97%	97%	98%	99%	100%	101%
88%	93%	94%	94%	95%	96%	97%
84%	88%	89%	90%	91%	92%	92%
92%	96%	97%	98%	99%	100%	101%
93%	98%	98%	99%	100%	101%	102%
94%	99%	100%	100%	101%	102%	103%
80%	84%	84%	85%	86%	87%	87%
101%	106%	107%	108%	109%	110%	111%
99%	104%	105%	106%	106%	107%	108%
93%	98%	99%	99%	100%	101%	102%
91%	95%	96%	97%	98%	99%	100%
95%	100%	101%	102%	103%	104%	105%
85%	89%	90%	90%	91%	92%	93%
78%	82%	82%	83%	84%	85%	85%
91%	95%	96%	97%	98%	99%	100%
69%	73%	73%	74%	75%	75%	76%
97%	102%	103%	104%	105%	106%	107%
91%	96%	96%	97%	98%	99%	100%
89%	93%	94%	95%	96%	97%	98%
87%	91%	92%	93%	94%	95%	96%
95%	100%	101%	102%	102%	103%	104%
83%	87%	88%	89%	90%	90%	91%
87%	91%	92%	93%	93%	94%	95%
81%	85%	86%	87%	87%	88%	89%
85%	89%	90%	91%	91%	92%	93%

86%	90%	91%	92%	93%	93%	94%
91%	96%	97%	98%	99%	100%	101%
87%	92%	83%	94%	94%	95%	96%
88%	92%	93%	94%	95%	96%	97%
86%	90%	91%	92%	93%	94%	94%
84%	88%	89%	90%	91%	92%	92%
79%	83%	84%	85%	85%	86%	87%
92%	96%	97%	98%	99%	100%	101%
85%	89%	90%	91%	91%	92%	93%
94%	99%	100%	101%	102%	103%	104%
92%	97%	98%	99%	100%	101%	102%
75%	79%	80%	81%	81%	82%	83%
79%	83%	84%	85%	85%	86%	87%
85%	89%	90%	90%	91%	92%	93%
81%	85%	85%	86%	87%	88%	89%
85%	89%	90%	91%	92%	93%	94%
81%	86%	86%	87%	88%	89%	90%
88%	92%	93%	94%	95%	95%	96%
93%	98%	98%	100%	101%	101%	102%
91%	95%	96%	97%	98%	99%	100%

All 55	Average	88%	93%	93%	94%	95%	96%	97%
All 55	Minimum	69%	73%	73%	74%	75%	75%	76%
All 55	Maximum	101%	106%	107%	108%	109%	110%	111%
First 36	Average	89%	94%	95%	95%	96%	97%	98%
First 36	Minimum	69%	73%	73%	74%	75%	75%	76%
First 36	Maximum	101%	106%	107%	108%	109%	110%	111%
Last 20	Average	86%	90%	91%	92%	93%	94%	95%
Last 20	Minimum	75%	79%	80%	81%	81%	82%	83%
Last 20	Maximum	94%	99%	100%	101%	102%	103%	104%

Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII
 @5% @6% @7% @8% @9% @10%

Table 7 Page 7 & 8

Three Months Moving Average Percentage Class III Divided by the Blend Price

CIII/Blend	CIII/Blend	CIII/Blend	CIII/Blend	CIII/Blend	CIII/Blend	CIII/Blend
	@5%	@6%	@7%	@8%	@9%	@10%

----- In all comparisons this month Blend less last month CIII-----

- 91%
- 93%
- 93%
- 92%
- 90%
- 89%
- 90%
- 89%
- 91%
- 90%
- 91%
- 88%
- 88%
- 90%
- 93%
- 89%
- 91%
- 93%
- 97%
- 94%
- 93%
- 90%
- 86%
- 84%
- 79%
- 86%
- 86%
- 92%
- 89%
- 90%
- 88%
- 88%
- 84%
- 84%

84%	88%	89%	90%	91%	91%	92%
87%	92%	93%	93%	94%	95%	96%
88%	93%	93%	94%	95%	96%	97%
89%	93%	94%	95%	96%	97%	98%
87%	91%	92%	93%	94%	95%	96%
86%	90%	91%	92%	93%	94%	95%
83%	87%	88%	89%	90%	90%	91%
85%	89%	90%	91%	92%	93%	93%
85%	89%	90%	91%	92%	93%	94%
90%	95%	96%	97%	97%	98%	99%
90%	95%	96%	97%	98%	99%	100%
87%	92%	93%	93%	94%	95%	96%
82%	86%	87%	88%	89%	90%	90%
80%	84%	84%	85%	86%	87%	88%
81%	85%	86%	87%	88%	89%	90%
83%	88%	88%	89%	90%	91%	92%
82%	87%	87%	88%	89%	90%	91%
85%	89%	90%	91%	92%	92%	93%
87%	92%	93%	93%	94%	95%	96%
91%	95%	96%	97%	98%	99%	100%

All 55	Average	88%
All 55	Minimum	79%
All 55	Maximum	97%

First 36	Average	89%
First 36	Minimum	79%
First 36	Maximum	97%

Last 20	Average	86%	90%	91%	92%	93%	93%	94%
Last 20	Minimum	80%	84%	84%	85%	86%	87%	88%
Last 20	Maximum	91%	95%	96%	97%	98%	99%	100%

Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII
 @5% @6% @7% @8% @9% @10%

Exhibit 22, Table 9 - Comparison of Payment Provisions Federal Orders

Order	Order Requirement			
	Billing to Producer		Payment to Cooperative	
	Advance Date appx date	Advance Rate	Partial Date appx date	Partial Rate
Northeast	26	lowest class price prior month	25	lowest class price prior month
Appalachian	26	90% prior months blend	25	90% prior months blend
Florida	20 & 5 (two payments)	85% prior months blend	19 & 4 (two payments)	90% prior months blend
Southeast	26	90% prior months blend	25	90% prior months blend
Midwest	26	lowest class price prior month	25	lowest class price prior month
Central	26	lowest class price prior month	24	lowest class price prior month
Mideast	26	lowest class price prior month	25	lowest class price prior month
Pacific Northwest	last day of month	lowest class price prior month	3rd last day	lowest class price prior month
Southwest	26	lowest class price prior month	25	lowest class price prior month
Arizona	27	1.3 times lowest price prior month	25	1.3 times lowest price prior month
Western	25	1.2 times lowest price prior month	24	1.2 times lowest price prior month
California Order	no req	no req	28	prior month class - mrg announced prices for fluid use

Exhibit 22, Chart 1 - Comparison of Alternatives for Federal Order 1033
 Advanced Price - Three Month Moving Average of Class III as Percent of Blend

