

#36 6/27/01  
(p. 1-28)

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

<b>In the Matter of</b>	:
<b>Milk In The Upper Midwest</b>	: <b>Docket Nos.:</b>
<b>Marketing Areas</b>	: <b>AO-361-A35 et al;</b>
	: <b>DA-01-03</b>
	:

**Statement Regarding Proposals 1 - 4**

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

**June 26, 2001  
Minneapolis, Minnesota**

# Statement of Dairy Farmers of America

Dairy Farmers of America (DFA) is a member owned Capper Volstead cooperative of 16,905 farms that produce milk in 45 states. DFA pools milk on 10 of the 11 Federal Milk Marketing Orders including – the Upper Midwest Federal Order. DFA is an ardent supporter of Federal Milk Marketing Orders and we believe that without them dairy farmers economic livelihood would be much worse. Federal Orders are economically proven marketing tools for dairy farmers. The central issue of this hearing is at the very core of the purpose for Orders – that of providing for orderly marketing and economically justifying the appropriate performance qualifications for sharing in the marketwide pool proceeds. If these issues are not addressed properly system wide, Orders could be jeopardized. That would be detrimental to DFA members both in their day-to-day dairy farm enterprises and the fluid milk processing investments that they have made.

## Summary of Proposals for This Hearing

Dairy Farmers of America has an interest in the proposals being heard at this hearing. These amendments are being requested by producers due to the present day dynamics surrounding the pooling of milk in Federal Milk Marketing Orders. We have three proposals to present and support at this hearing. The first deals with the open pooling of large volumes of milk from locations so distant to the market that we question if it would ever regularly serve the market in any capacity. We share the same interest with the proponents of proposals 1 ,2 and 3 that the distant milk needs to have some limit and definition that is workable and consistent system wide with Federal Order policy. We do, however, have a different concept of how best to achieve that end result. Secondly we see the need to provide language that would protect the pool from association of volumes of milk with the Order through a silent loophole in the diversion language. Finally, we feel that the level of the advance payment at the lowest prior month's Class price is no longer a fair mechanism for setting the advance price.

## Not Just a Federal Order 30 Issue

With regard to **Proposal 4** we note that the underlying issue is not just a local Order 30 issue. We have concerns identical to those expressed by the other proponents here and by DFA members in the Pacific Northwest, Western, Central and Mid East Federal Orders - that milk from distant areas is pooling on the Order and drawing down the blend price but not serving the market in any regular form. We find this practice detrimental to DFA members, DFA customers and the entire

Federal Order system. We plan to express that concern in other Federal Order hearings and seek a solution that is consistent and in line with Federal Order principles.

The central issue in each case is the interface between the pricing surface, altered by Federal Order Reform (Reform) and the pooling provisions found in each Order. Those relationships were changed by Reform. The link between performance and pooling was altered and needs review. Organizations, including DFA and several if not all of the remaining proponents of these proposals here, have moved quickly to take advantage of these changes in Order rules. Indeed, in the competitive dairy economy if a competitor makes a pooling decision that results in increased funds you must attempt to do the same or face a more difficult competitive position. Individual organizations cannot unilaterally disarm! We think this process of extensive distant market open pooling is inconsistent with Federal Order policy and was disparaged in the Reform record. We are offering proposals here and will be offering proposals in other Order hearings reflecting that philosophy.

## **Federal Order Reform**

The Final Rule published on September 1, 1999 in the Federal Register culminated the Federal Order Reform process. It was a lengthy process but produced needed beneficial results for the industry - which could not have been accomplished without the informal rule process. Through it the number of Federal Orders were reduced from 31 Orders / marketing areas down to 11. It provided clear rules for what constitutes a market. The pricing provisions were improved, modernized and made more uniform and transparent across the Federal Order system. A more common classification system and standardization of the provisions common to all Orders was instituted. The Option 1 - A differential surface, a superior Class I advance price mechanism, the "higher of" mechanism and common multiple component pricing provisions across all Orders using component pricing were all valuable improvements to the Federal Order program.

Even though the process was lengthy and thorough, the dairy industry is dynamic and changing and we currently find that provisions of the Order system need review and alteration. Areas that need review include the pricing provisions that were addressed in the Class III and IV hearing held last spring. (AO-14-A69, etc) The combination of an absolute versus a relative price surface that we now have and its interface with the prevailing pooling provisions is an issue that is now plaguing the industry and is being addressed at this hearing.

## **Federal Order Benefits and Principles**

Federal Orders offer benefits to both producers and handlers and have always operated in a deliberate and organized manner guided by basic economic principles. Two primary benefits of Orders are to allow producers to gain from the orderly marketing of milk and to share the proceeds of market wide pooling. Orderly marketing embodies principles of common terms and pricing that attracts milk to move to the highest valued market when needed and clears the market when not needed. Market wide pooling allows qualified producers to share in the returns from the market equitably and in a manner that provides incentives to supply the market in the most efficient manner.

## **The Concept of a "Market"**

Fundamental to Federal Order principles are the concepts of a marketing area (market) and the concept of "performance to the market" in order to be qualified to share in the returns from that market. The Federal Milk Order Market Statistics Annual Summary defines a marketing area as, "*...a designated trading area within which the handling of milk is regulated by the Federal Order.*" In every set of Federal Order Regulations, subsection 2 defines the geographic area of the marketing order.

Federal Order Reform sought out industry comment on marketing areas, established seven criteria for their establishment and then used those criteria to divide much of the lower 48 states into 11 Federal Order markets. The criteria and the Department's explanation of them, taken directly from the Final Rule are as follows:

The same seven primary criteria as were used in the two preliminary reports and the proposed rule were used to determine which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation. The Final Rule explained the criteria are as follows:

- 1. Overlapping route disposition.** The movement of packaged milk between Federal Orders indicates that plants from more than one Federal Order are in competition with each other for Class I sales. In addition, a degree of overlap that results in the regulatory status of plants shifting between orders creates disorderly conditions in changing price relationships between competing handlers and

neighboring producers. This criterion is considered to be the most important.

2. **Overlapping areas of milk supply.** This criterion applies principally to areas in which major proportions of the milk supply are shared between more than one Order. The competitive factors affecting the cost of a handler's milk supply are influenced by the location of the supply. **The pooling of milk produced within the same procurement area under the same order facilitates the uniform pricing of producer milk.**<sup>1</sup> (emphasis added) Consideration of the criterion of overlapping procurement areas does not mean that all areas having overlapping areas of milk procurement should be consolidated. An area that supplies a minor proportion of an adjoining area's milk supply with a minor proportion of its own total milk production while handlers located in the area are engaged in minimal competition with handlers located in the adjoining area likely does not have a strong enough association with the adjoining area to require consolidation. For a number of the consolidated areas it would be very difficult, if not impossible, to find a boundary across which significant quantities of milk are not procured for other marketing areas. In such cases, analysis was done to determine where the minimal amount of route disposition overlap between areas occurred, and the criterion of overlapping route disposition generally was given greater weight than overlapping areas of milk supply. **Some analysis also was done to determine whether milk pooled on adjacent markets reflects actual movements of milk between markets, or whether the variations in amounts pooled under a given order may indicate that some milk is pooled to take advantage of price differences rather than**

---

<sup>1</sup> Milk Procurement areas were considered as a criteria for Order 30 boundaries and the distant areas in question here were not found to be a part of the Order 's Marketing area.

**because it is needed for Class I use in the other market.<sup>2</sup> (emphasis added)**

- 3. Number of handlers within a market.** Formation of larger-size markets is a stabilizing factor. Shifts of milk and/or plants between markets becomes less of a disruptive factor in larger markets. Also, the existence of Federal order markets with handlers too few in number to allow meaningful statistics to be published without disclosing proprietary information should be avoided.
- 4. Natural boundaries.** Natural boundaries and barriers such as mountains and deserts often inhibit the movement of milk between areas, and generally reflect a lack of population (limiting the range of the consumption area) and lack of milk production. Therefore, they have an effect on the placement of marketing area boundaries. In addition, for the purposes of market consolidation, large unregulated areas and political boundaries also are considered a type of natural barrier.
- 5. Cooperative association service areas.** While not one of the first criteria used to determine marketing areas, cooperative membership often may be an indication of market association. Therefore, data concerning cooperative membership can provide additional support for combining certain marketing areas.
- 6. Features or regulatory provisions common to existing orders.** Markets that already have similar regulatory provisions that recognize similar marketing conditions may have a head start on the consolidation process. With calculation of the basic formula price replacement on the basis of components, however, this criterion becomes less important. The consolidation of markets having different payment plans will be more dependent on

---

<sup>2</sup> (paper pooling was reviewed and was not considered a criteria for deciding area and certain areas were not put together as orders)

Additional analysis was done to make sure whether or not milk supplies that were associated with an Order ("paper-poolings") really should be a factor in determining the Marketing Area. In the case of Order 30 this distant milk in question here was not included in the marketing Area.

whether the basic formula component pricing plan is appropriate for a given consolidated market, or whether it would be more appropriate to adopt a pricing plan using hundredweight pricing derived from component prices.

**7. Milk utilization in common dairy products.**

Utilization of milk in similar manufactured products (cheese v. butter-powder) was also considered to be an important criterion in determining how to consolidate the existing orders.”

*64 Fed. Reg. 16045 (April 2, 1999).*

The Final Rule went on to describe Federal Order 30 geographically and how the seven criteria were applied to form the boundaries for the marketing area.

**UPPER MIDWEST** - current marketing areas of the Chicago Regional, Upper Midwest, Zones I and I (a) of the Michigan Upper Peninsula Federal milk orders, and unregulated portions of Wisconsin. The Iowa Federal order marketing area portion of one Illinois county, in which Chicago Regional handlers have the preponderance of sales, is added to the consolidated Upper Midwest marketing area, and the Chicago Regional portion of another Illinois county, in which Iowa order handlers have the preponderance of sales, is removed and added to the consolidated Central area. These changes will reduce overlapping route disposition between the two consolidated orders and reduce the incidence of partial counties in marketing areas.

Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders and overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order. A number of the same cooperative associations market member milk throughout the consolidated area.

*64 Fed. Reg. 16050 (April 2, 1999).*

The Final Rule went into great detail about the characteristics of the marketing area from the standpoint of geography, population, per capita consumption, milk production, distributing plants, utilization of milk supply, other plants, cooperative associations, criteria for consolidation and discussion of alternatives to the

selected combination for marketing area. The details of those criteria are as follows:

## **Descriptions of Consolidated Marketing Areas.**

Each of the consolidated order areas is described in the text following this introduction. The criteria, which were used to determine which areas should be consolidated, are explained. For each consolidated area, the following information is included:

**Geography.** The political units (states, counties, and portions of counties) included in each area, the topography, and the climatic conditions are described for the purpose of delineating the territory to be incorporated in each consolidated marketing area and describing its characteristics pertaining to milk production and consumption. This information was derived principally from Microsoft® Encarta® 96 Encyclopedia, and augmented by several U.S. atlases.

**Population.** The total population of each area and its distribution within the area is included for the purpose of identifying where milk is consumed. July 1, 1997, population estimates were obtained from "CO-97-1 Estimates of the Population of Counties," Population Estimates Program, Population Division of the U.S. Bureau of the Census.

Metropolitan Statistical Area (MSA) information is provided by the United States Office of Management and Budget (OMB), which defines metropolitan areas according to published standards that are applied to Census Bureau data. To be described as an MSA, an area (one or more counties) must include at least one city with 50,000 or more inhabitants, or a Census Bureau-defined urbanized area (of at least 50,000 inhabitants) and a total metropolitan population of at least 100,000 (75,000 in New England). Areas with more than 1 million population may be described as "consolidated metropolitan statistical areas" (CMSAs) made up of component parts designated as primary metropolitan statistical areas (PMSAs). For purposes of the marketing area descriptions in this decision, the term "MSA" also includes CMSAs and PMSAs.

**Per capita consumption.** Available data pertaining to per capita consumption is discussed to help describe how much milk is needed to supply the fluid needs of the population of each marketing area. Per capita consumption numbers were estimated by state using data from a report on "Per Capita Sales of Fluid Milk Products in



Federal Order Markets," published in the December 1992 issue of Federal Milk Order Market Statistics, #391, issued May 1993. This data was the most recent available.

**Production.** A description of the amount and sources of milk production for the market is included for the purpose of identifying the supply area for each consolidated marketing area.<sup>3</sup> (emphasis added) Production data by state and county for each Federal milk order was compiled from information collected by the offices administering the current Federal milk orders (market administrators' offices). For most of the consolidated marketing areas, production data has been updated to October 1997. For several of the consolidated areas, however, October 1997 data is difficult to compile and, when compared with previously published statistics, may yield confidential information. For these areas, the data cited in the proposed rule has been used to describe the sources of milk for the consolidated market.

**Distributing plants.** For each marketing area the number and types of distributing plants expected to be associated with each marketing area are included, with the locations of plants by population centers, to identify where milk must be delivered. This information was collected by market administrators' offices. The expected regulatory status was determined on the basis of each plant's receipts and route distribution of fluid milk during October 1997. Changes in plant operations or distribution patterns could change the expected status.

**Utilization.** The utilization percentages of the current individual orders and the effect of consolidation on the consolidated orders are described for each marketing area, with an estimate of the effect of consolidation on each current individual order's blend price. The current utilization data is published each month for each Federal milk order market. Pool data was used to calculate the effects of consolidation on utilization.<sup>4</sup> (emphasis added)

**Other plants.** The presence of manufacturing and supply plants in and near the consolidated order areas, and the products processed at these plants, are described for each consolidated area. This

---

<sup>3</sup> The sources of milk production were subjected to a detailed analysis to determine whether or not they should be included as a part of the Order 30 Marketing Area. The sources of milk production in question here were not included in the Marketing Area for Federal Order 30.

<sup>4</sup> The utilization of milk was also subjected to detailed analysis and the production from the distant areas in question here were not factored in to the utilization analysis and were excluded from the Order 30 Marketing Area.

information was collected by market administrators' offices for May 1997, and has been changed from the proposed rule only where changes from the proposed marketing areas have occurred.

**Cooperative Associations.** The number of cooperative associations pooling member milk under each of the current individual orders included in each consolidated area, and the number that pool milk in more than one of the areas is identified. This information was obtained from market administrators' offices, updated to December 1997 from the proposed rule. For purposes of the consolidation discussion, the four cooperative associations that combined to create Dairy Farmers of America (DFA) are considered to be a single organization.

**Criteria for Consolidation.** The extent to which the criteria used in identifying markets to be consolidated are supported by the marketing conditions present in each of the consolidated areas is discussed. <sup>5</sup>(emphasis added)

**Discussion of comments and alternatives.** Comments filed in response to the consolidation section of the proposed rule and alternatives considered are summarized and discussed for each consolidated area.

*64 Fed. Reg. 16052 (April 2, 1999).*

The detail about the Upper Midwest Marketing Area as outlined in the Final Rule is as follows:

**UPPER MIDWEST.**

The consolidated Upper Midwest marketing area is comprised of the current Upper Midwest (Order 68) and Chicago Regional (Order 30) marketing areas, with the addition of the western portion of the Michigan Upper Peninsula (Order 44) marketing area. There are 204 counties in this consolidated area. One partial Illinois county proposed to be part of the Central order area has been added to this area, and another partial Illinois county proposed to be part of this area has been changed to the Central order area.

**Geography.** The consolidated Upper Midwest marketing area is described geographically as follows: 15 counties in Illinois (all currently in Order 30), 6 counties in Iowa (all currently in Order

---

<sup>5</sup> In all of the combined criteria, none of the distant areas in question here were considered to be a part of the Order 30 Marketing Area.

68), 6 counties in Michigan (all currently in Zones I and IA of Order 44), 83 counties in Minnesota (all currently in Order 68), 16 counties in North Dakota (all currently in Order 68), 8 counties in South Dakota (all currently in Order 68), and 70 counties in Wisconsin (43 currently in Order 30, 20 currently in Order 68, and 7 currently unregulated). This market is about 600 miles east to west and about the same distance north to south.

The area described above is contiguous to the consolidated Central market to the south, a small corner of the consolidated Mideast market to the southeast, and the eastern portion of Michigan's Upper Peninsula, also part of the consolidated Mideast market, to the northeast. North of the Upper Midwest market is Lake Superior and the Canadian border, and west of the market is a large sparsely-populated and unregulated area. Most of the eastern border of the marketing area is Lake Michigan.

The consolidated Upper Midwest marketing area is generally low-lying, with some local differences in elevation in Wisconsin and the upper peninsula of Michigan. Natural vegetation in the western part of the area is tall-grass prairie, with the eastern two-thirds of the northern portion being broadleaf forest, coniferous forest, and mixed broadleaf and coniferous forest. Annual precipitation averages 30-35 inches per year. Most of the area experiences summer temperatures that average about 75 degrees; the northern and western portions average winter temperatures are in the low 'teens, while the southern and more eastern portions experience average winter temperatures in the 20's. The far western part of the market predominantly grows mixed field crops, with cattle and soybeans more to the southwest. Both Minnesota and Wisconsin are included in the top five milk-producing states, and dairy is the number 1 agricultural enterprise in Wisconsin, generating over half of the State's income derived from agricultural commodities.

**Population.** According to July 1, 1997, population estimates, the total population of the consolidated Upper Midwest marketing area is approximately 18.5 million. Using Metropolitan Statistical Areas (MSAs), there are 3 population centers over 1 million. The Chicago-Gary-Kenosha area, primarily in northeastern Illinois, is the largest, with a 7.9 million population in the marketing area. The Minneapolis-St. Paul area, located mostly in Minnesota, is next with 2.8 million; and the third-largest MSA is Milwaukee-Racine, Wisconsin, with a population of 1.6 million. The Chicago area is located in the southeast corner of the marketing area, on the west side of the southern end of Lake Michigan, with Milwaukee approximately 85 miles north, also along Lake Michigan.

Minneapolis is located 400 miles northwest of Chicago, along the Minnesota-Wisconsin border.

Approximately two-thirds of the population of the consolidated marketing area is within the three largest MSAs, with 81 percent of the population contained within the area's 17 MSA's (with the 14 smaller MSAs averaging 196,000 population).

Sixty percent of the population of the market is concentrated in the Illinois and southeast Wisconsin portion of the marketing area. In Wisconsin, nearly 90 percent of the population is located in the southern two-thirds of the state, and in Minnesota 85 percent of the population is in the southern half of the state.

**Fluid Per Capita Consumption.** Based on the population figure of 18.5 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the consolidated Upper Midwest marketing area is estimated at 370 million pounds per month. Plants that would be fully regulated distributing plants under the Upper Midwest order had route disposition within the market of 343 million pounds in October 1997. Handlers fully regulated under other Federal orders distributed 43 million pounds in the consolidated marketing area during October 1997, while partially regulated plants distributed 1.7 million pounds. Producer-handlers and exempt plants operating in the combined marketing areas during this month had a combined route disposition of less than .5 million pounds.

**Milk Production.** In October 1997, 2.4 billion pounds of milk were associated with the Chicago Regional and Upper Midwest markets, but only 1.6 billion pounds of milk were pooled because of class price relationships. The 2.4 billion pounds were produced by 27,250 producers located in 13 states from Tennessee to Minnesota, and from New Mexico to Michigan. **However, over 93 percent of the producer milk was produced within the consolidated marketing area, and 91.4 percent was produced within the states of Wisconsin and Minnesota.<sup>6</sup> (emphasis added)** As with population density and milk plant density, most milk production in Minnesota and Wisconsin occurs in the southern parts of these states. Over 85 percent of Wisconsin milk associated with the combined Chicago Regional-Upper Midwest orders in October 1997 was produced in the southern two-thirds of the State, while

---

<sup>6</sup> After analysis of the milk supply none of the distant milk in question here was included in the Order 30 Marketing Area.

84 percent of the Minnesota milk associated with the two orders was produced in the southern half of Minnesota.

Fifty-two counties, 10 in Iowa, 15 in Minnesota, and 27 in Wisconsin supplied milk to both the current Chicago Regional and Upper Midwest orders during October 1997. The largest part of the common production area is in Wisconsin, where 27 counties supply 25 percent of the milk associated with Order 30, and 30 percent of the milk associated with Order 68. When data for the 52 counties is combined, 26 percent of the Chicago Regional market and 42 percent of the Upper Midwest market is supplied by this common production area.

**Distributing Plants.** Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 35 distributing plants would be expected to be associated with the Upper Midwest marketing area, including 27 fully regulated distributing plants (2 currently partially regulated and 25 currently pool plants), 4 partially regulated (3 currently partially regulated and 1 currently fully regulated), 1 producer-handler, and 3 exempt plants, based on distributing less than 150,000 pounds of total route disposition per month (1 new, 1 currently partially regulated, and 1 currently unregulated). Since October 1997, one pool distributing plant and one partially regulated plant have gone out of business. There would be 6 distributing plants in the Chicago area (5 pool plants and 1 exempt plant). The Milwaukee-Racine area would have 2 pool distributing plants. There would be 7 distributing plants in the Minneapolis-St. Paul area (6 pool plants and 1 partially regulated plant). Of the remaining 20 distributing plants, 16 are located in other MSAs as follows: 4 pool plants in Minnesota, 2 pool plants and 2 partially regulated plants in North Dakota, 1 pool plant in Illinois, and 5 pool plants, 1 partially regulated plant, and 1 exempt plant in Wisconsin. Four of the remaining distributing plants are not located in MSAs: 1 pool plant and 1 exempt plant in Minnesota, 1 producer-handler in Wisconsin and 1 pool plant in Michigan.

**Utilization.** According to October 1997 pool statistics for handlers who would be fully regulated under this Upper Midwest order, the Class I utilization percentages for the Chicago Regional and Upper Midwest were 29 and 19 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Upper Midwest order, the potential

impact of this consolidation on producers who supply the current market areas is estimated to be: Chicago Regional, a 3-cent per cwt decrease (from \$12.98 to \$12.95), and Upper Midwest, a 2-cent per cwt increase (from \$12.89 to \$12.91). The weighted average use value for the consolidated Upper Midwest market, based on October 1997 data, is estimated to be \$12.94 per hundredweight. However, a substantial amount of milk was omitted from both pools for October 1997 because of unusual class price relationships. Annual Class I utilization percentages may be considered more representative for these markets. For the year 1997, the annual Class I utilization percentage for the Chicago Regional market was 21.5, with 18.7 for the Upper Midwest. The Class I use percentage for the entire Michigan Upper Peninsula market, which has a individual handler pool and represents a very small portion of the producer milk that would be expected to be pooled under the consolidated Upper Midwest order, was 89 percent. It is estimated that the Class I use percentage for the consolidated order would be in the neighborhood of 20 percent.<sup>7</sup> (emphasis added)

**Other Plants.** Located within the consolidated Upper Midwest marketing area during May 1997 were 301 supply or manufacturing plants: 1 in South Dakota, 3 in Iowa, 28 in Illinois (12 in the Chicago area), 39 in Minnesota (over three-quarters of which are located in the southeastern quarter of the State), and 230 in Wisconsin (over 90 percent of which are scattered throughout the southern three-quarters of the state). One hundred five of the plants are pool plants, or have a "pool side." Eighty-five of the 105 pool plants (1 in Iowa, 4 in Illinois, 16 in Minnesota and 64 in Wisconsin) are "split plants;" that is, one side of a plant is a manufacturing facility and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Most of the other pool plants are pool supply plants, located primarily in Wisconsin that ship milk to pool distributing plants.

The 196 nonpool plants in the consolidated Upper Midwest marketing area are manufacturing plants -- 103 manufacture primarily cheese, 16 manufacture primarily Class II products, 15 manufacture primarily butter, 23 manufacture primarily milk

---

<sup>7</sup> In the analysis of utilization no current nor projected calculations considered the distant milk in question here as a part of the Order 30 Marketing Area.

powders, and 39 manufacture primarily other products. Also associated with the Upper Midwest order, but not within the marketing area, are 2 pool supply plants and 6 manufacturing plants (3 manufacturing primarily cheese, 2 making Class II products, and 1 butter plant) in North Dakota.

**Cooperative Associations.** In December 1997, 67 cooperative associations pooled member milk on the Chicago Regional and Upper Midwest orders, providing 99 percent of the milk pooled under each of the two orders. Nine of the cooperatives marketed milk in both orders, accounting for nearly half of the milk pooled in the Upper Midwest (and 42.9 percent of the cooperative member milk), and 66.8 percent of the milk pooled in the Chicago Regional market (67.5 percent of total cooperative member milk). In the two markets, 16 cooperatives pooled milk only under Order 30, and 42 cooperatives pooled milk only under Order 68.

**Criteria for Consolidation.** As in the proposed rule, the Chicago Regional, Upper Midwest, and the western end of the Michigan Upper Peninsula marketing areas should be combined into a consolidated Upper Midwest Federal order marketing area. Although these areas do not have a considerable degree of overlapping fluid milk disposition, they do have an extensive overlapping procurement area.<sup>8</sup> (emphasis added) Handlers regulated under the Chicago Regional and Upper Midwest markets (the predominant markets in this consolidation) distribute milk into markets further south, and approximately 10 percent of the fluid milk distributed within the consolidated area is distributed by handlers regulated under other orders. However, these other orders are more closely related to markets to the south than to the consolidated Upper Midwest order area. On that basis, it is more appropriate to include them in other consolidated marketing areas.

Other aspects of the consolidation also fit the criteria set forth. The consolidated Upper Midwest area is bounded on three sides by Lakes Michigan and Superior, the international border with Canada, and a large unregulated area. A significant portion of both the Chicago Regional and Upper Midwest markets' milk is supplied by the same cooperative associations. The two predominant markets have identical multiple component pricing plans, and both have large reserves of milk that normally is used in manufactured products, primarily cheese. Approximately 90 percent of the milk

---

<sup>8</sup> The detailed review of the Order 30 procurement area did not include the distant milk in question here as a part of the Marketing Area.

used in manufacturing in these markets is used to make cheese. The amount of cheese manufactured from milk pooled under these milk orders is enough to supply a population 3 times greater than that of the consolidated marketing area. Fluid milk handlers in both markets must compete with cheese manufacturers for a milk supply, and marketing order provisions for both markets must provide for attracting an adequate supply of milk for fluid use.

Discussion of Comments and Alternatives. Prior to issuance of the proposed rule, alternatives to the consolidation of the order areas included in the Upper Midwest marketing area that were considered included combining the Iowa, Nebraska-Western Iowa, and Eastern South Dakota order areas with those of the Chicago Regional and Upper Midwest areas in a consolidated Upper Midwest order. Also considered was a consolidation of even more marketing areas (up to 10; including Indiana, Illinois, parts of Kentucky, Missouri, and Kansas) that would increase the population and Class I use of the consolidated Upper Midwest area.

Over 160 comments received in response to the proposed rule concerned the proposed consolidated Upper Midwest marketing area. Nearly 140 of these comments (including approximately 120 form letters) supported a consolidation of 10 marketing areas for the purpose of increasing the Class I utilization of the consolidated Upper Midwest order area to a level closer to the U.S. national average or, at the very least, including the Iowa, Eastern South Dakota, and Nebraska-Western Iowa marketing areas in the consolidated Upper Midwest area.

**No justification on the basis of the criteria of overlapping sales and procurement areas could be found for any increase in a consolidated marketing area that would be comprised of the Chicago Regional and Upper Midwest order areas beyond the addition of the Iowa, Eastern South Dakota, and Nebraska-Western Iowa marketing areas.**<sup>9</sup>(emphasis added) The collection of more detailed data concerning the overlap in route disposition and milk procurement showed clearly that those three areas are more closely related to markets to the south than to the north, with approximately 85 percent of the total fluid milk distributed by handlers regulated under the three orders disposed of in the consolidated Central market.

---

<sup>9</sup> Using the criteria established no justification could be found for including any of the distant milk in question here as a part of the Order 30 Marketing Area.



The numerous markets recommended by upper midwest producer groups to be consolidated with the Chicago Regional and Upper Midwest order areas have very little distribution or procurement overlap with those areas, aside from occasional need for reserve milk supplies. **When reserve supplies are needed by the other markets, upper midwest milk can be, and is, pooled on the more southern markets and shares in their pools. The potential gain of adding areas recommended by upper midwest producer groups would be much less than the loss to producers whose milk is pooled under orders to be consolidated in the Central, Mideast and Appalachian marketing areas.**<sup>10</sup> (emphasis added)

Approximately 10 comments, including some from cooperative associations representing large numbers of producers, advocated the addition of the northeast portion of the Iowa marketing area to the consolidated Upper Midwest area based on the extensive overlap of producers, Class I sales, and geographic similarities between that area and the adjoining consolidated Upper Midwest area. An equivalent number of comments, most from Iowa interests, argued that the consolidated Upper Midwest order should remain as proposed. This issue is more fully discussed in the "Comments and Alternatives" section of the description of the Central order area, as is the assignment to consolidated areas of 3 counties, each in its entirety, that currently are split between orders.

One comment advocated the addition of the Gary, Indiana, area to the consolidated Upper Midwest area instead of the Mideast area on the basis that Gary, Indiana, is part of the greater Chicago market. This portion of the current Indiana order area historically has been part of the Indiana marketing area, and there is no data supporting its separation from that area. The single pool distributing plant located in Gary has ceased to process milk. Any distribution in the Gary area acquired by Chicago handlers as a result will be pooled as Class I use under the consolidated Upper Midwest order.

**Based on the considerations of the most recent data available, comments received, and the stated consolidation criteria, limiting the extent of the consolidated Upper**

---

<sup>10</sup> The Final Rule even considered the case of how supplemental milk supplies might be used in deciding the boundaries of the Order 30 Marketing Area and did not include the distant milk in question here as a part of the Marketing Area. The primary reason for exclusion was due to the negative effect on the blend prices of the particular Order in question. The Final Rule left those issues to be solved outside of the Order regulation.

**Midwest marketing area to the areas of the current Chicago Regional and Upper Midwest marketing areas, with the addition of the western part of the Michigan Upper Peninsula marketing area, represents the most appropriate marketing area configuration for the north central area of the U.S.<sup>11</sup> (emphasis added)**

*64 Fed. Reg. 16070 (April 2, 1999).*

Early in the Reform process there was extensive discussion of having a single national Federal Order with the premise of a flat blend price across the entire country. There were several proposals, several economic studies and some debate within Congress over this issue. The single Order option was rejected by Congress and thus the premise of the flat blend price with it. The very first sentence in of the Final Rule in Section 1 "Consolidation of Markets" reads;

Subtitle D Chapter 1 of the 1996 Farm Bill, entitled "Consolidation and Reform of Federal Milk Marketing Orders," requires, among other things, that the Federal Milk Marketing Orders be limited to not less than 10 nor more than 14.

*64 Fed. Reg. 16044 (April 2, 1999).*

So the rationale offered by some that open pooling allows for blends to be equalized across a large territory runs counter to the intent of Congress and the direct instructions given to the Secretary.

The debate over marketing area was very deliberate. Each of the published records leading up to the Final Rule published a map of marketing areas with some guidelines and invited comments. Those maps showing the process are in the DFA exhibits:

Map 1 - from the Proposed Rule

Map 2 - from the Interim Final Rule

Map 3 - from the Final Rule

In each case markets are rigorously defined. Thus the concept of a marketing area as a limited area, defined by specific criteria, instituting specific terms of

---

<sup>11</sup> After a complete review of many alternatives the Final Rule, using the established criteria, did not include any of the distant milk in question here in the Order 30 Marketing Area.

trade and a specific reason for a singular existence is well defined in the Final Rule. The criteria have been uniformly defined and then uniquely applied to each Order throughout the system by the Reform decision. Even in viewing the alternative proposals for Order boundaries leading up to the Final Rule no case can be made that this distant milk in question here should be a part of the Federal Order 30 marketing Area and share in the returns of the market.

## **The Concept of Marketwide Pooling**

In addition to the concept of a market another of the foundations of the Federal Order system is the principle of "market wide pooling". A reasonably adequate history of milk marketing in the United States exists back to the 1860's. It documents well the problems of producers and their attempt to improve their economic well being. The common fault through all of the recordings is the inability of the milk supply to be able to service the market in a manner that treated all producers equitably. The superior negotiating position of milk buyers, distance to market, which party would pay for balancing the market and how would the variations in supply and demand be handled always tripped up dairy farmers in their marketing efforts. Furthermore each attempt to improve on past efforts seemed to fail when one or more of the suppliers would find a way to "opt out" of the added cost of serving the market and obtain a higher return for themselves but at a lower price than the market had established. The literature refers to this as the "free rider" problem. Eventually the other suppliers would seek the "higher return" but "lower price" and every dairy farmer's price would be lower. The marketwide pool eliminated the differences in price to suppliers within the same market at the minimum blend price level. This in turn eliminated the non-productive competitive drive for a higher return for me but lower price for everyone else. The common enforcement of the Order meant that everyone faced the same terms of trade.

This principle is still worthy as evidenced by the fact that every Federal Order has a marketwide pool in which returns are shared by all producers. No recent hearing has recommended any change in this fundamental system. The Reform record endorses the concept of marketwide pooling and includes a lengthy discussion of it in the record.

## **The Concept of Pooling Milk Proceeds**

All Federal milk orders today, save one, provide for the marketwide pooling of milk proceeds among all producers supplying the market. The one exception to this form of pooling is found in the Michigan

Upper Peninsula market, where individual handler pooling has been used.<sup>12</sup>

Marketwide sharing of the classified use value of milk among all producers in a market is one of the most important features of a Federal milk marketing order. It ensures that all producers supplying handlers in a marketing area receive the same uniform price for their milk, regardless of how their milk is used. This method of pooling is widely supported by the dairy industry and has been universally adopted for the 11 consolidated orders.

*64 Fed. Reg 16130 (April 2, 1999).*

Additionally, each Order has precise terms that a supplier must follow in order to ~~share in the blend proceeds~~. These provisions are known by the industry as **"performance standards"**. This concept is explained, defended and endorsed in the Final Rule as follows:

There were a number of proposals and public comments considered in determining how Federal milk orders should pool milk and which producers should be eligible to have their milk pooled in the consolidated orders. Many of these comments advocated a policy of liberal pooling, thereby allowing the greatest number of dairy farmers to share in the economic benefits that arise from the classified pricing of milk.

A number of comments supported identical pooling provisions in all orders, but others stated that pooling provisions should reflect the unique and prevailing supply and demand conditions in each marketing area. **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.**<sup>13</sup> (emphasis added)

*64 Fed. Reg. 16130 (April 2, 1999).*

Performance standards are universal in their intention – to require a level of association to a market marked by the ability and willingness to supply that

---

<sup>12</sup> This Order was merged into the Upper Midwest Marketing Area and it and its' individual handler pool no longer exist.

<sup>13</sup> The concept of a performance standard is fundamental to the Federal Order System.

market. However, they are individualized in their application. Each market requires standards that work for the conditions that apply in that market. The Reform record develops and defends this concept.

**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. Obviously, matching these goals to the very disparate marketing conditions found in different parts of the country requires customized provisions to meet the needs of each market.<sup>14</sup> (emphasis added)**

For example, in the Florida marketing area, where close to 90 percent of the milk in the pool will be used for fluid use, pooling standards will require a high degree of association with the fluid market and will permit a relatively small amount of milk to be sent to manufacturing plants for use in lower-valued products. In the Upper Midwest market, on the other hand, a relatively small percentage of milk will be needed for fluid use. Accordingly, under the pooling standards for that order smaller amounts of milk will be required to be delivered to fluid milk plants and larger amounts of milk will be permitted to be sent to manufacturing plants for use in storable products such as butter, nonfat dry milk, and hard cheese. The specific pooling provisions adopted for each order are discussed in detail in the sections of this document pertaining to each of the consolidated orders.”

*64 Fed. Reg. 16130 (April 2, 1999).*

A review of the various Federal Order performance standards shows the diversity of standards, but the common requirement of performance to the market in order to share in the blend price pool.

Table \_1\_, DFA Exhibit 37, is a comparison of federal order producer milk standards. The standards for performance within the Upper Midwest Marketing Area reflect the unique features of this Order marketing area. Some of these unique standards are touch base rules that are liberal and reflect the abundance of supply relative to the needs of the fluid market.

Table \_2\_, DFA Exhibit     , is a comparison of federal order pooling standards. The delivery standard - that ten percent of all milk pooled must be delivered to a

---

<sup>14</sup> The norm is a customized standard within a market.

distributing plant (section 1030.7(c)(1) ) - recognizes the quantity of milk needed for fluid sales; the lack of the absolute need for a supply plant / reload network to supply the market; the existing plant and manufacturing network within the market and the fact that split plant provision is beneficial to this market. These standards while good and workable for Federal Order 30 are not good and workable for other Orders because they have different marketing conditions present.

The Final Rule also rejected the notion of open pooling outright. The record states:

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. Proposals to create and fund "stand-by" pools are similarly rejected for the same reason.

*64 Fed. Reg. 16130 (April 2, 1999).*

We find no compelling reason to change this guideline. Open pooling is a cause for concern from DFA's members in Federal Order 30. They are concerned when milk from distant areas shares in the blend price pool but does not perform, does not deliver regularly, nor balance the market on Thursday and Friday when extra milk is needed by fluid processors. Because of the distance and cost involved the distant milk in question here does not service the market when extra milk is needed in the fall to accommodate increased school milk sales. These suppliers do not provide manufacturing capacity to handle weekend milk or holiday milk or seasonal increases in milk production. It is irrelevant that some of the milk in question originates in California, which happens to have a state milk marketing order and a quota system. This milk is no more burdensome than the milk that originated in Idaho or any other distant area. In any case, the cost of providing those services to the market falls back on the local milk supply. So the local supply is hit with service costs for a lesser return! The resulting draw of blend price funds without performance is not reasonable and Order regulations should not permit or enable it.

DFA Exhibit 7, furnished by the Market Administrator, illustrates the volume of distant milk that is pooling on Order 30. Map 4, produced by the Federal Order 32 Market Administrator, graphically details the data provided by DFA Exhibit       . Data provided by handlers on the sources of pooled milk, as required by each Federal Order, is the source data for this map. It shows the Order Marketing area and the sources of milk pooled on the Order. Clearly some milk is being pooled on the Order that can rarely if ever serve the market. The accompanying mileage table outlines the distances involved.

Table \_3\_, DFA Exhibit 31, depicts mileages from various points to the Federal Order 30 milkshed. A quick review of the relationship between the blend price return versus the delivery cost shows how difficult it would be for this milk supply to regularly serve the market. Indeed a daily delivery would yield a net loss of \$71,647 from a California source or \$48,576 from Idaho in January of 2000. No rational supply decision would be made here. This milk supply could never serve this market. Even as a last resort spot supply, any milk buyer that I have ever been associated with would not agree to pay the premiums necessary to make this a break-even proposition. And it would be difficult to argue that Federal Order 30 needs spot shipments to augment local supplies.

Table \_4\_, DFA Exhibit 32, is a comparison of return versus haul with no performance standard. However, once the returns are examined for the case of a single delivery touch base the economic evaluation changes drastically. After absorbing the one time haul cost both the California and Idaho supply generate a return in the first month and the return grows substantially in the second month. So long as there is a positive PPD the return is always there, so there is no calculation penalty for estimating wrong about the amount of the PPD. Also once the initial haul is "earned back" it is never a factor again. Once the arrangements are made the open pooling would seem to have a long life of no performance but good collections.

The arrangements to make this work are a source supply that always delivers to a manufacturing home (must be a non pool home in any Federal Order marketing area) and a destination point that can qualify producer milk in Order 30. In this case the destination point is the "deal initiator". These minimal requirements can be met by each proponent at this hearing, so "foreclosure to the opportunity" is not a valid argument for stopping this practice. Every shipment must meet quality standards and any rejection of delivery carries a stiff penalty. Each "producer delivery" must meet the minimum shipment volume or it will be disallowed on audit and returning the blend draw several months in arrears is painful – especially when multiplied in million pound increments. So while there are some deterrents to this practice but they can be easily overcome.

So why is this milk becoming associated with the market? The pooling requirements for Order 30, which work well for milk produced in the marketing area, do not work well for milk produced out of the area. This coupled with the change in the pricing surface makes open pooling very lucrative. Because of the Order 30 standards of touch base once for life and the fact that a producer does not lose association with another market so long as he is not delivered to another Federal Order plant makes it easy to get associated with Federal Order 30. Once associated it becomes even easier to stay associated with the Order.

\* Milk in California will not be delivered to other Federal Order plants because there are none there to deliver to. The Idaho deliveries do not delivered to any Federal Order plant "at home" and thus maintain their association with Federal

Order 30. Those plants are not willing to release milk to supply the fluid market in their local Order. So the ability to take advantage of open pooling in Order 30 allows them to share in a blend return somewhere else but not perform at home – a doubly unreasonable scenario. Since it is so easy to get and retain association with the market, the milk can be perpetually pooled without ever having to deliver a second time. The fact that distant milk can be associated with local deliveries to pyramid the volume pooled makes even more milk pool under the open pooling concept. X

The economic burden of the delivery cost becomes a one-time event. The milk stays home, never performs and draws down the local blend pool. Local producers continue to serve the local market, balance it weekly and seasonally for a decreasing return. Indeed under this scheme the only way milk would cease attachment is with a negative PPD. But so long as the milk supply did not touch another Federal Order plant it would reappear as soon as the supplier estimated the PPD to be positive.

The Order 30 Market Administrator can exact some geographic requirements on the shipping percentage standards in Federal Order 30. (section 30.7(g)) Ironically if he were to do so, the milk would simply disappear off of the pool until the standards were relaxed because it would be uneconomical to pool if performance were required. And since the touch base rules would not be violated the distant milk could return by simply filing a pool report. While the economic analysis required of the Market Administrator to justify a decision to force the "least economic" milk to perform might be difficult, the mechanical workings I have described would be real.

So what provisions should be changed or added to the Order so that this situation can be remedied. Interestingly enough, none of the proponents suggested changing any of the performance standards specific to Order 30. There were no proposals to increase the touch base requirements or increase the shipping percentage standards. There have not been any requests to our knowledge for the Market Administrator to apply any geographic standards to the shipping requirement. Rightly so because they would pose undue hardship on the local milk supply. Indeed the lack of such proposals here is a good testimony that the unique marketing area and performance criterion that are set for Order 30 are correct for Order 30.

While we share the same view with proponents of Proposals 1 and 2 that there is an issue of concern due to the open pooling provisions allowing milk distant from the market to pool without performing, we differ in how to correct the problem.

The solutions they propose are insufficient in several areas:

- 1) Proposal 1 does not recognize the primacy of a marketing area nor does it address the concerns of a performance standard. We feel that any proposal must



incorporate these fundamentals. The setting of an arbitrary standard that cannot be measured with an economic ruler is not the right way to go and may suffer from future legal challenge.

2) Proposal 1 does not address the total universe of the potential supply that can attach itself to the market but never serve the market. In this specific case milk from Idaho would not be affected in any way by the proposed relief but would still pool and not ship.

3) Proposal 1 may result in unforeseen negative consequences between milk pooled in Federal Orders and milk pooled in State Orders. There are State Milk Marketing Orders in California, Nevada, North Dakota, Montana, Virginia, Pennsylvania, New York and Maine. There have been proposals in recent years in Texas, Kansas and Nebraska and occasionally even in Wisconsin for State Orders to be promulgated. The interface between Federal Orders and the existing State Orders is difficult to determine and impossible with potential future State Orders. We see no reason to seek a solution that may incur future trouble when better solutions are available.

4) Proposal 1 may result in unforeseen negative consequences between milk pooled in Federal Orders and milk pooled in Compacts. While there is presently only a single Compact there may be more in the future. There is even talk of a National Compact that would include the Upper Midwest. We see no reason to seek a solution that may incur future trouble when better solutions are available.

5) Proposal 1 requires an additional audit burden and the authority to collect that information may not be available. To our knowledge, the California State officials are under no requirement to furnish data for audit to the Federal Order System.

6) Enactment of Proposal 1 would only migrate the problem to other Order areas. A more uniform application to all Orders that would solve or alleviate greatly this concern is a superior choice.

With regard to our Proposal 4 we note:

1) The concept is already in place in Federal Order 1001 (Northeast Order) and was in place in Federal Order 1002 prior to Reform. So it has already stood the test of time.

2) It recognizes the principles of both a marketing area and the performance aspect of market wide pooling.

3) It carries little additional record-keeping or audit burden.

4) It has a measurable economic consequence that is in line with existing Order principles that if the economics are positive regulation does not prohibit pooling. Yet it provides a reasonable and defensible hurdle for distant milk to overcome. As shown in Table ~~4~~<sup>5</sup>, the provision that each state must be treated individually and perform as a stand alone entity under the same 10% performance as any other in area milk supply, provides a reasonable economic test of whether or not the market needs the milk supply for local class I use. The economic return must be earned in the market place and not on the pooling report. At the 10% shipping level and the same PPD and delivery cost there are months of negative returns and some months of positive ones thus raising the hurdle of economic risk. By requiring performance like other local milk supplies the intangibles of rejected loads, bad weather and a variable demand from bottlers makes the return less dependable and the risk greater - but more like the decision making that local milk must pass under every day.

Table ~~4~~<sup>5</sup>, DFA Exhibit ~~3~~<sup>4</sup>, is a comparison of the return versus haul with a performance standard. For the California supply the CY 2000 annual PPD of \$0.83 / cwt was near breakeven. For the Idaho supply the return was reduced from \$0.82 / cwt for the whole period to \$0.31. We understand that there may be a request made to the Federal Order 30 Market Administrator to increase the shipping percentage pursuant to Section 1030.7 (g). An increase in the shipping requirement to 15% makes the Idaho return negative at the \$0.83 PPD level. Plus both calculations ignore the effect of the Class I differential. Idaho counties have a lower differential than Minnesota counties. Thus the calculation would be even more detrimental.

5) The individual state unit concept is an adequate and reasonable safeguard for a lower utilization Order in which tighter diversion limitations or supply plant restrictions might otherwise cause hardship. Furthermore the "no unit" provision prevents in area milk from qualifying distant milk. It also discourages distant milk from seeking a large volume supply from a nearby state and forming a unit to ease the performance requirement. We find schemes similar to this occurring in other Federal Orders and they disrupt orderly marketing practices there. We wish to avoid their spread.

6) The states included in the "non unit" marketing area include those present in the Order currently. We, like the Final Rule, find few instances of milk from other areas a part of the regular supply for Federal Order 30. In this case we think that setting the boundaries along state borders is reasonable for the Upper Midwest Order.

Thus our proposal would read:

...the Federal Order language for Section 1030.7(g) be revised to include reference to the proposed new section 1030.13(e) and should read... "the

*applicable shipping percentages in paragraphs (c) and (f) of section 1030.7 and of paragraphs 1030.13(d)(2) and (e)(2) may be increased or decreased at the discretion of the Market Administrator."*

...the language in section 1030.13(d)(2) should also be revised to include a reference to the proposed section 1030.13(e) and should read... *"Of the total quantity of producer milk reported by a handler described in 1000.9(c), except as provided in 1030.13(e), not less than 10 percent of such milk shall be delivered to plants as described in 1030.7(c)(1)(i) through (iv). These percentages are subject to any adjustments that may be made pursuant to 1030.7(g)..."*

...the proposed language for the new section 1030.13(e) could then read:

*"Milk of producers physically located outside the states of Illinois, Iowa, Minnesota, North Dakota, South Dakota, Wisconsin and the Upper Peninsula portion of Michigan shall be grouped by individual state units and each unit shall be:*

- (1) Reported on separate report(s) pursuant to section 1030.30.*
- (2) At least ten percent of such producer milk of the handler shall be delivered to plants described in 1030.7<sup>(c)(1)(i) through (iv)</sup>~~(a) or (b)~~ and such deliveries shall not be used by the handler in meeting the minimum shipping percentages required pursuant to 1030.7(c) or (f) or 1030.13(d); and*
- (3) The percentages of 1030.13(e)(2) are subject to any adjustments that may be made pursuant to 1030.7(g)."*

In concert with Proposal 4 and because we feel that it should be a part of the current Order language we are concerned that there is no specified diversion limitation set for a handler operating in the capacity of a pool plant operator.

..thus we would propose changing 1030.13 d(3) to d(4) and insert a new section d(3) to read:

*The quantity of milk diverted by a handler operating in the capacity of a pool plant operator may not exceed 90 percent of the producer milk receipts reported by the handler pursuant to section 1030.30(a) provided that not less than 10 percent of such receipts are delivered to plants described in section 1030.7 (c) (i) through (iii). These percentages are subject to any adjustments that may be made pursuant to section 1030.7(g); and...*

This change under current Order administration will prevent any handler operating in the capacity of a pool plant operator attaching an unlimited quantity of milk to his diversion report because there is no limit prescribed in the Order. And the same limitations would prove necessary under Proposal 4 for the same

reason. If a limit is not provided, for a handler may choose to attach an unlimited quantity of distant milk with no constraint. Furthermore in the mechanics of Order 30 the shipping percentage provisions also act as a defacto diversion limit. By providing a fixed number both may be altered by the Market Administrator if a request for change is made by the industry. Without our proposal there is no limit to alter.

Note that we have changed our proposal to add as a delivery location those plants described by section 1030.7 (c)(iv). This makes the unit have the same delivery qualifications as local milk. *(Distributing plants regulated by another Federal Order)*

### **Conclusion Regarding Proposal 4**

Data presented in this record indicates that milk from distant areas is being pooled on Federal Order 30 in increasing volumes. This milk volume reduces the blend price to local suppliers. Additional evidence shows that due to distance and economic return this milk would never supply the market regularly.

We have demonstrated, on the basis of the conclusions in the Final Rule that milk such as these supplies generally and, in this case, from these specific locations, was never intended to be part of the Federal Order 30 marketing area. Geographically it was never considered a part of the supply area and from a performance perspective, it cannot meet the requirements. The fact that this milk is able to share in the blend pool should be corrected.

The solutions we propose are sound, found in other sections of the Order system and provide a rationale that can be consistently used for other Orders.

*also add to "producer milk" [1030.1]*

### **Comments on the Emergency Status**

Regarding the issue of an emergency decision we have the following comments:

1) The problems being discussed at this hearing are not unique to the Upper Midwest Marketing Area. While they may be categorized for publicity purposes as "double dipping", the problem, when converted to cents per hundredweight off the blend price, is milk from distant areas taking advantage of open pooling type provisions and reducing the blend price for local producers who regularly serve the market.

2) The "emergency" is just as great in Kansas or Missouri, Indiana or Michigan, Colorado or Utah and Washington or Oregon.

- 3) DFA will ask for emergency decisions in hearing requests in the Mid East, Central, Western and Pacific Northwest Federal Orders.
- 4) We cannot see the fairness in a decision that favors one geographic area of the Federal Order system over another Order area with the same problem.
- 5) What is important is that the decisions in each Order area be either announced over a relatively narrow time frame or implemented at the same time. If not, the problem that may get corrected in Minnesota will just migrate to Oklahoma!
- 6) The likelihood will be that while there will be several hearings the central focus of each will be similar. The Dairy Division should be able to process the hearings along similar tracks and produce decisions that look reasonably similar. This should speed the process.

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

<b>In the Matter of</b>	:
	: <b>Docket Nos.:</b>
<b>Milk In The Upper Midwest</b>	: <b>AO-361-A35 et al;</b>
	: <b>DA-01-03</b>
<b>Marketing Areas</b>	:

**Statement Regarding Proposal 5**

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

**June 26, 2001  
Minneapolis, Minnesota**

Proposal 5 reflects the need to alter the advance payment provisions of Order 30. DFA members continue to request that they be paid an advance payment that more closely resembles the actual blend price. Their individual farm business needs demand a more consistent cash flow in order to remain viable. The current provisions that call for advance billings at the prior month's lowest class price do not provide sufficient funds to meet our members' cash flow objectives. The Final Rule makes the following statements about the Uniform Price and the Advance Price:

### **Payments to Producers and Cooperative Associations**

The AMAA provides that handlers must pay to all producers and producer associations the uniform price. The existing orders generally allow proper deductions authorized by the producer in writing. Proper deductions are those that are unrelated to the minimum value of milk in the transaction between the producer and handler. Producer associations are allowed by the statute to 'reblend' their payments to their producer members. The Capper Volstead Act and the AMAA make it clear that cooperative associations have a unique role in this regard.

The payment provisions to producers and cooperatives for the consolidated orders vary with respect to payment frequency, timing, and amount. These differences are generally consistent with current order provisions and with industry practices and customs in each of the new marketing areas.

Each of the new orders will require handlers to make at least one partial payment to producers in advance of the announcement of the applicable uniform prices. The Florida order will require 2 partial payments, mirroring the payment schedule now provided in the 3 separate Florida orders.

The amount of the partial payment varies among the new orders, reflecting the anticipated uniform price. Thus, for example, in the Upper Midwest order, the partial payment rate for milk received during the first 15 days of the month will be not less than the lowest announced class price for the preceding month. By comparison, the partial payment for the Florida order for milk received during the first 15 days of the month will be at a rate that is not less than 85 percent of the preceding month's uniform price, adjusted for plant location.

64 Fed Reg. (April 2, 1999)

There is a wide variety of payment dates and payment levels among the various Orders. The table identified as DFA Exhibit \_6\_ presents the differing provisions. There is no precedent for a uniform payment level or terms across all Orders. Among the Order system there are three broad groupings. In the Southern Orders payment are set at a percentage of the prior months blend price adjusted for location. The Northeast and Central area of the country sets the

advanced payment level at the prior month's lowest Class price. The Western Orders use an add-on percentage applied to the prior month's lowest class price.

The Final Rule supports the principle that all handlers pay the uniform price. We can see no reason why the Advance Payment should not come closer to approximating the Uniform Price. Examination of recent data shows that the Advance Price is getting further from the Uniform Price. (See DFA Exhibit \_7\_ Data for Advanced Prices and Chart of Price Trends pages 1 – 8 and Chart)

By examining the data it is clear that there has been a change in trend in the advance price versus blend relationship. The price measure is this month's blend less last month's Class III price. For the period January 1997 – May 2001 (53 months) the monthly average spread between the two prices was \$0.85. However, the first 36 months averaged only 73 cents (1997 – 1999) and the last 17 months \$1.08. Graphically this trend is shown on the Chart of Price Trends (DFA Exhibit \_\_7\_\_) where even after a three month average was used to smooth out some of the fluctuations a difference in trend can be noted.

In order to determine a better relationship between the prior month's lowest Class price and this month's blend price, the lowest Class price was inflated by three, four, five, six, seven and eight percent. These ranges were chosen after testing several different ranges. The spreads were measured and compared in the same manner as the existing blend versus Class price data. After examination it appears that a three percent inflation of the prior month's lowest Class price is a reasonable adjustment to approximating the spread that existed over the first 36-month period.

It is a problem if the advance price is larger than the final because some producers may not have enough funds to cover their deductions. Also in some extraordinary cases the advance may over pay the total amount due and result in the need for some type of collection proceeding, which is difficult and costly. This, however, as dairy prices are more volatile this is an issue under the current system even if no adjustment is made. Producer premiums are substantial in the Federal Order 30 procurement area and that should buffer the overpayment concerns. This concern needs to be balanced by a dairy farmers' right to a reasonable approximation of the blend price advance payment.

Thus we would request that the rate for advance payments be set at 103 percent of the prior month's lowest class price.



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

<b>In the Matter of</b>	:
	: <b>Docket Nos.:</b>
<b>Milk In The Upper Midwest</b>	: <b>AO-361-A35 et al;</b>
	: <b>DA-01-03</b>
<b>Marketing Areas</b>	:

**EXHIBITS**

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

**June 26, 2001  
Minneapolis, Minnesota**

## DFA EXHIBITS

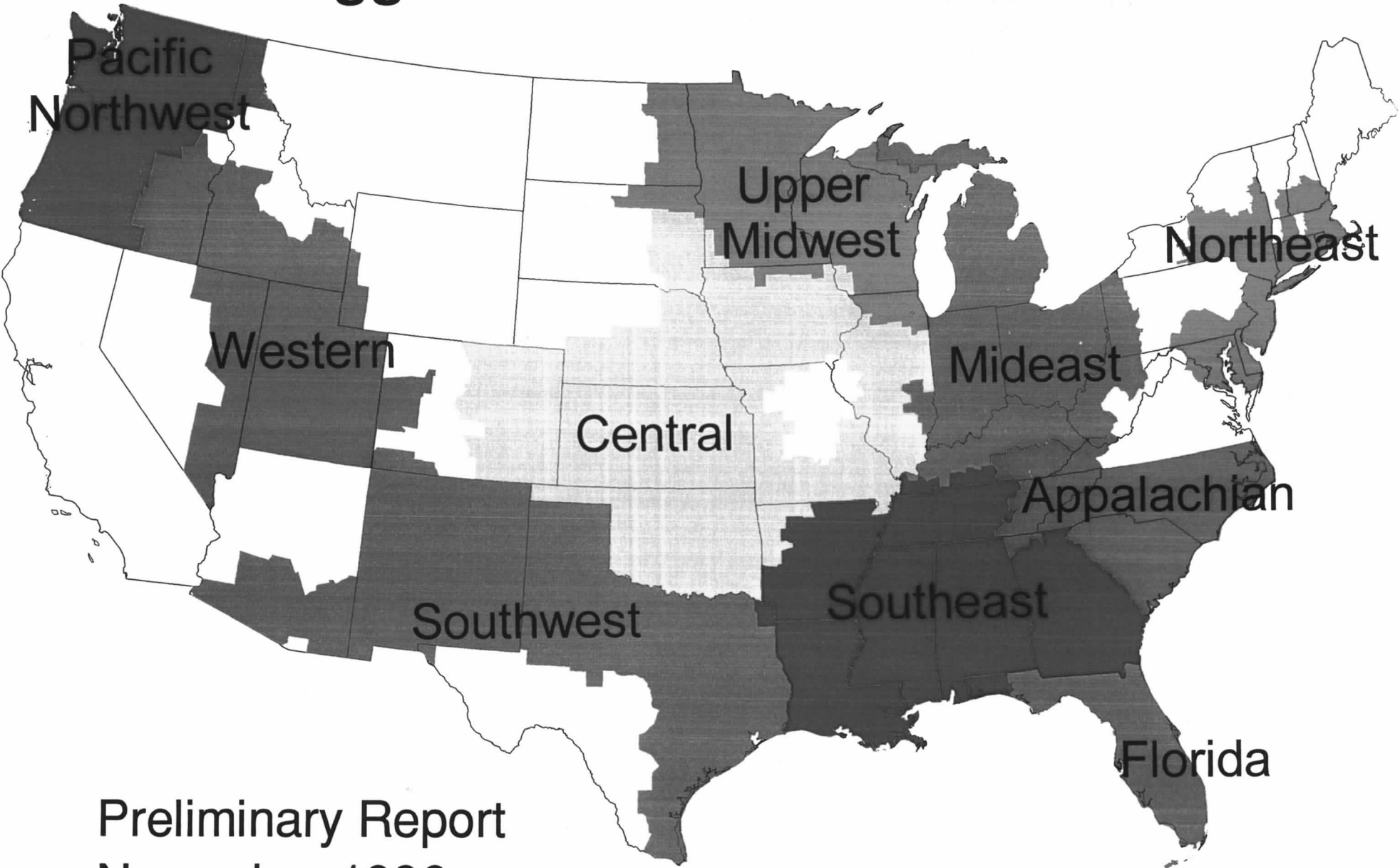
1. Map 1 . . . . . Proposal Rule Marketing Areas
2. Map 2 . . . . . Interim Final Rule Marketing Areas
3. Map 3 . . . . . Final Rule Marketing Areas
4. Map 4 . . . . . Upper Midwest Order 30 Milk  
Shed Map - December 2000
5. Table 1-A . . . . . Comparison of Federal Order  
Producer Milk Standards
6. Table 2 . . . . . Comparison of Federal Order  
Pooling Standards
7. Table 3 . . . . . Mileages from Various Points to  
the Federal Order 30 Milk Shed
8. Table 4 . . . . . Comparison of Return v. Haul with  
no Performance Standard
9. Table 5 . . . . . Comparison of Return v. Haul  
with Performance Standard
10. Table 6 . . . . . Comparison of Federal Order  
Reporting and Payment Dates
11. Table 7 . . . . . Data, Calculation and Graphics  
Concerning Advance Pricing  
Proposal #5  
(8 pages plus one chart)

Table \_\_1\_\_

**PRODUCER MILK**

<b>Marketing Area</b>	<b>Individual Producer Conditions for Diverison</b>	<b>Handler Diversion Limits</b>
Northeast	Not eligible for diversion unless milk of dairy farmer has been physically received as producer milk.	No diversion limit specified but in practical terms limited to 100% minus the applicable shipping standard.
Appalachian	July-Dec., at least 6 days' production received at pool plant. Jan-June, at least 2 days'.	25% July-Nov., Jan & Feb.; 40% Dec. & March-June, of milk physically received at pool plants.
Florida	Any month, at least 10 days' production received at pool plant.	20% July-Nov.; 25% Dec.-Feb.; 40% March-June, of milk physically received at pool plants.
Southeast	Jan.-June, at least 4 days' production physically received at pool plant. July-Dec., at least 10 days'.	33% July-Dec.; 50% Jan.-June, of milk physically received at pool plants.
Upper Midwest	Not eligible for diversion unless one day's production physically received at pool plant in 1st month.	90% any month of receipts of producer milk by handler described in §1000.9(c). No limits for distributing plants.
Central	Not eligible for diversion until one day's production physically received at pool plant in 1st month.	65% Sept.-Nov. & Jan.; 75% Feb.-April & Dec., of handler's receipts of producer milk.
Mideast	Not eligible for diversion until one day's production physically received at pool plant in 1st month. Sept.-Nov., at least one day's production physically received at a pool plant.	60% Sept.-Feb. of handler's receipts of producer milk.
Pacific Northwest	None	80% Sept.-Feb.; 99% March-Aug. of handler's receipts of producer milk.
Southwest	Lesser of 40,000 lbs. or one day's production physically received at pool plant.	50% any month of handler's receipts of producer milk.
Arizona-Las Vegas	Each month, at least one day's production physically received at a pool plant.	50% any month of handler's receipts of producer milk.
Western	Not eligible for diversion unless one day's production physically received at pool plant.	90% any month of handler's receipts of producer milk.

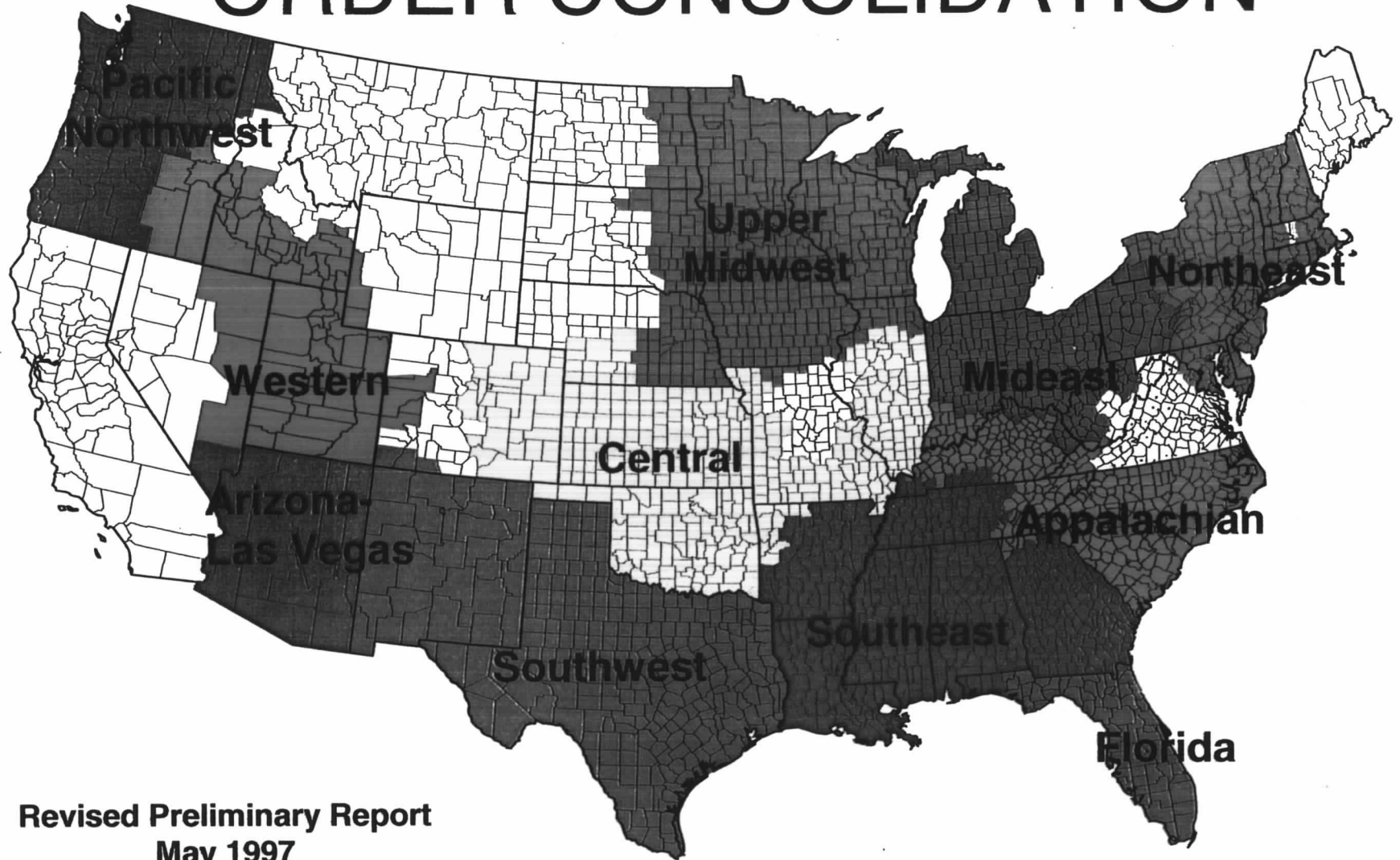
# Suggested Order Consolidation



Preliminary Report  
November 1996  
(Issued 12-3-96)

Proposal Rule Marketing Areas

# SUGGESTED ORDER CONSOLIDATION



Revised Preliminary Report  
May 1997

# Consolidated Federal Milk Marketing Order Areas



# Upper Midwest F.O. #30 Milkshed Map -- December 2000

## 1,654,853,609 Pounds

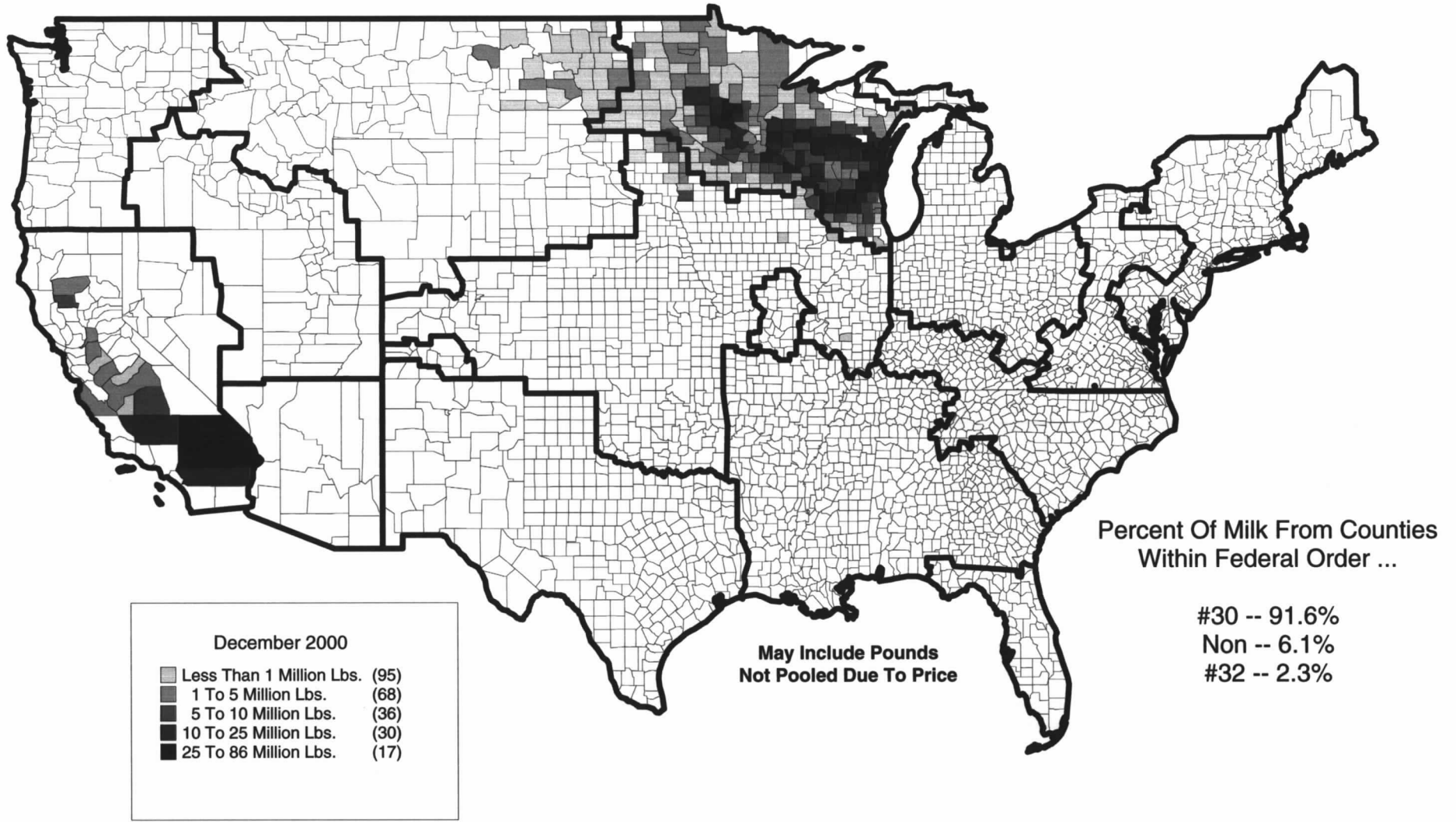


Table   2  **MINIMUM POOLING STANDARDS FOR SUPPLY PLANTS UNDER FEDERAL MILK ORDERS**

Marketing Area	Minimum Shipments to Distributing Plants		Automatic Pool Plant Qualification		
	Period Applicable	Percentage	Period Applicable	For Automatic	Qualification
Northeast	Jan.-July, Aug., Dec., September-November	10 20	January - July	Qualify	August- December
Appalachian	Any month	50	No provision		
Florida	Any month	60	No provision		
Southeast	Any month	50	No provision		
Upper Midwest	Any month	10	No provision		
Central	Sept.-Nov., Jan. Feb.-Aug., Dec.	35 25	May-July	Qualify	August-April
Mideast	Any month	30	March-August	Qualify	Sept.-Feb.
Pacific Northwest	Any month	20	March-August	Qualify	Sept.-Feb.
Southwest	Any month	50	No provision		
Arizona-Las Vegas	Any month	50	No provision		
Western	Any month	35	March-August	Qualify	Sept.-Feb.



Table   3  

**Comparison of Mileages California and Idaho vs Minneapolis Locations**

**1,819 Corona - Minneapolis**  
**2,111 Orland - Minneapolis**  
**1,288 Jerome - Minneapolis**  
**1,904 Petaluma - Minneapolis**  
**1,854 Hughson - Minneapolis**  
**1,912 Tulare - Minneapolis**  
**1,979 Humboldt - Minneapolis**

**Comparison of Delivery Charges versus Producer Price Differential**  
**Idaho and California Delivery to Minneapolis**  
**January 2000 - May 2001**  
**1,000,000 LB Producer**  
**Touch Base Requirement of 32,787 pounds**

Assumptions	California	Idaho
Transport Volume	47,500	47,500
Rate Per Mile	\$ 1.95	\$ 1.95
Miles	1,850	1,288
Rate per CWT	\$ 7.59	\$ 5.29

FO 1030 Monthly PPD	Column I		Column II		Column III	
	Return After Daily Delivery Million Pound Producer		Return After Monthly Delivery Million Pound Producer		Monthly Return One Time Touch Base Million Pound Producer	
	California	Idaho	California	Idaho	California	Idaho
	per cwt		total dollars			
January	\$ 0.43	\$ (7.16)	\$ (71,647)	\$ (48,576)	\$ 1,810	\$ 2,566
February	\$ 0.56	\$ (7.03)	\$ (70,347)	\$ (47,276)	\$ 5,600	\$ 5,600
March	\$ 0.64	\$ (6.95)	\$ (69,547)	\$ (46,476)	\$ 6,400	\$ 6,400
April	\$ 0.74	\$ (6.85)	\$ (68,547)	\$ (45,476)	\$ 7,400	\$ 7,400
May	\$ 0.90	\$ (6.69)	\$ (66,947)	\$ (43,876)	\$ 9,000	\$ 9,000
June	\$ 0.97	\$ (6.62)	\$ (66,247)	\$ (43,176)	\$ 9,700	\$ 9,700
July	\$ 0.70	\$ (6.89)	\$ (68,947)	\$ (45,876)	\$ 7,000	\$ 7,000
August	\$ 0.84	\$ (6.75)	\$ (67,547)	\$ (44,476)	\$ 8,400	\$ 8,400
September	\$ 0.70	\$ (6.89)	\$ (68,947)	\$ (45,876)	\$ 7,000	\$ 7,000
October	\$ 0.86	\$ (6.73)	\$ (67,347)	\$ (44,276)	\$ 8,600	\$ 8,600
November	\$ 1.43	\$ (6.16)	\$ (61,647)	\$ (38,576)	\$ 14,300	\$ 14,300
December	\$ 1.23	\$ (6.36)	\$ (63,647)	\$ (40,576)	\$ 12,300	\$ 12,300
January	\$ 1.03	\$ (6.56)	\$ (65,647)	\$ (42,576)	\$ 10,300	\$ 10,300
February	\$ 0.88	\$ (6.71)	\$ (67,147)	\$ (44,076)	\$ 8,800	\$ 8,800
March	\$ 0.78	\$ (6.81)	\$ (68,147)	\$ (45,076)	\$ 7,800	\$ 7,800
April	\$ 0.83	\$ (6.76)	\$ (67,647)	\$ (44,576)	\$ 8,300	\$ 8,300
May	\$ 0.67	\$ (6.92)	\$ (69,247)	\$ (46,176)	\$ 6,700	\$ 6,700
					\$ 139,410	\$ 140,166
17 Mo Avg	\$ 0.83				0.82	0.82

## Comparison of Delivery Charges versus Producer Price Differential

Idaho and California Delivery to Minneapolis

January 2000 - May 2001

1,000,000 pound Producer

Touch Base Requirement of 32,787 pounds

Delivery Requirement of 10%

Assumptions	California	Idaho
Transport Volume	47,500	47,500
Rate Per Mile	\$ 1.95	\$ 1.95
Miles	1,850	1,288
Rate per CWT	\$ 7.50	\$ 5.29

FO 1030 Monthly PPD	Column I			Column II		Column III	
	Return After Daily Delivery Million Pound Producer			Return After Monthly Delivery Million Pound Producer		Monthly Return 10% Delivery Requirement Million Pound Producer	
	California	Idaho		California	Idaho	California	Idaho
	per cwt		total dollars		total dollars		
January	\$ 0.43	\$ (7.16)	\$ (4.86)	\$ (71,647)	\$ (46,576)	\$ (3,295)	\$ (988)
February	\$ 0.56	\$ (7.03)	\$ (4.73)	\$ (70,347)	\$ (47,276)	\$ (1,995)	\$ 312
March	\$ 0.64	\$ (6.95)	\$ (4.65)	\$ (69,547)	\$ (46,476)	\$ (1,195)	\$ 1,112
April	\$ 0.74	\$ (6.85)	\$ (4.55)	\$ (68,547)	\$ (45,476)	\$ (195)	\$ 2,112
May	\$ 0.90	\$ (6.69)	\$ (4.39)	\$ (66,947)	\$ (43,876)	\$ 1,405	\$ 3,712
June	\$ 0.97	\$ (6.62)	\$ (4.32)	\$ (66,247)	\$ (43,176)	\$ 2,105	\$ 4,412
July	\$ 0.70	\$ (6.89)	\$ (4.59)	\$ (68,947)	\$ (45,876)	\$ (595)	\$ 1,712
August	\$ 0.84	\$ (6.75)	\$ (4.45)	\$ (67,547)	\$ (44,476)	\$ 805	\$ 3,112
September	\$ 0.70	\$ (6.89)	\$ (4.59)	\$ (68,947)	\$ (45,876)	\$ (595)	\$ 1,712
October	\$ 0.86	\$ (6.73)	\$ (4.43)	\$ (67,347)	\$ (44,276)	\$ 1,005	\$ 3,312
November	\$ 1.43	\$ (6.16)	\$ (3.86)	\$ (61,647)	\$ (38,576)	\$ 6,705	\$ 9,012
December	\$ 1.23	\$ (6.36)	\$ (4.06)	\$ (63,647)	\$ (40,576)	\$ 4,705	\$ 7,012
January	\$ 1.03	\$ (6.56)	\$ (4.26)	\$ (65,647)	\$ (42,576)	\$ 2,705	\$ 5,012
February	\$ 0.88	\$ (6.71)	\$ (4.41)	\$ (67,147)	\$ (44,076)	\$ 1,205	\$ 3,512
March	\$ 0.78	\$ (6.81)	\$ (4.51)	\$ (68,147)	\$ (45,076)	\$ 205	\$ 2,512
April	\$ 0.83	\$ (6.76)	\$ (4.46)	\$ (67,647)	\$ (44,576)	\$ 705	\$ 3,012
May	\$ 0.67	\$ (6.92)	\$ (4.62)	\$ (69,247)	\$ (46,176)	\$ (895)	\$ 1,412
						\$ 8,863	\$ 36,549
CY 2000 Avg	\$ 0.83					\$ 0.05	\$ 0.21
17 Mo Avg	\$ 0.83					\$ 12,789	\$ 52,011
						\$ 0.06	\$ 0.31

Table \_\_\_6\_\_\_

**REPORTING, POOL AND PAYMENT DATES**

Marketing Area	Handler Reports		Announcement of Producer Prices	Payments for Milk				Rate
	Reports/ Utilization	Payroll		To PSF	From PSF	Payments	to Producers	
						<u>Partial</u>	<u>Final</u>	<u>Prior Month</u>
Northeast	9th	22nd	13th	15th	16th	26th	17th	lowest class
Appalachian	7th	20th	11th	12th	13th	26th	14th	90% blend
Florida	7th	20th	11th	12th	13th	20th, 5th	14th	90% blend
Southeast	7th	20th	11th	12th	13th	26th	14th	90% blend
Upper Midwest	9th	22nd	13th	15th	16th	26th	17th	lowest class
Central	7th	20th	11th	14th	15th	26th	17th	lowest class
Mideast	7th	22nd	13th	15th	16th	26th	17th	lowest class
Pacific Northwest	9th	20th	14th	16th	18th	Last day of mo.	19th	lowest class
Southwest	8th	20th	13th	16th	17th	26th	18th	lowest class
Arizona-Las Vegas	7th	20th	11th	13th	14th	27th	15th	1.3 times lowest class
Western	7th	21st	12th	14th	15th	25th	17th	1.2 times lowest class

Data for Comparison of Advance Price Alternatives

	Class III - A or IV	Class III	Lowest Price	Class III @3%	Class III @4%	Class III @5%	Class III @6%	Class III @7%	Class III @8%	Blend Price
Jan-97	\$ 11.50	\$ 11.94	\$ 11.50	\$ 11.85	\$ 11.96	\$ 12.08	\$ 12.19	\$ 12.31	\$ 12.42	\$ 12.31
Feb	\$ 12.36	\$ 12.46	\$ 12.36	\$ 12.73	\$ 12.85	\$ 12.98	\$ 13.10	\$ 13.23	\$ 13.35	\$ 12.39
Mar	\$ 12.78	\$ 12.49	\$ 12.49	\$ 12.86	\$ 12.99	\$ 13.11	\$ 13.24	\$ 13.36	\$ 13.49	\$ 12.81
Apr	\$ 12.10	\$ 11.44	\$ 11.44	\$ 11.78	\$ 11.90	\$ 12.01	\$ 12.13	\$ 12.24	\$ 12.36	\$ 12.06
May	\$ 11.56	\$ 10.70	\$ 10.70	\$ 11.02	\$ 11.13	\$ 11.24	\$ 11.34	\$ 11.45	\$ 11.56	\$ 11.49
Jun	\$ 12.22	\$ 10.74	\$ 10.74	\$ 11.06	\$ 11.17	\$ 11.28	\$ 11.38	\$ 11.49	\$ 11.60	\$ 11.28
Jul	\$ 12.06	\$ 10.86	\$ 10.86	\$ 11.19	\$ 11.29	\$ 11.40	\$ 11.51	\$ 11.62	\$ 11.73	\$ 11.27
Aug	\$ 11.88	\$ 12.07	\$ 11.88	\$ 12.24	\$ 12.36	\$ 12.47	\$ 12.59	\$ 12.71	\$ 12.83	\$ 11.94
Sep	\$ 11.87	\$ 12.79	\$ 11.87	\$ 12.23	\$ 12.34	\$ 12.46	\$ 12.58	\$ 12.70	\$ 12.82	\$ 12.34
Oct	\$ 13.40	\$ 12.83	\$ 12.83	\$ 13.21	\$ 13.34	\$ 13.47	\$ 13.60	\$ 13.73	\$ 13.86	\$ 13.09
Nov	\$ 14.01	\$ 12.96	\$ 12.96	\$ 13.35	\$ 13.48	\$ 13.61	\$ 13.74	\$ 13.87	\$ 14.00	\$ 13.34
Dec	\$ 12.46	\$ 13.29	\$ 12.46	\$ 12.83	\$ 12.96	\$ 13.08	\$ 13.21	\$ 13.33	\$ 13.46	\$ 13.62
Jan-98	\$ 12.04	\$ 13.25	\$ 12.04	\$ 12.40	\$ 12.52	\$ 12.64	\$ 12.76	\$ 12.88	\$ 13.00	\$ 13.62
Feb	\$ 12.89	\$ 13.32	\$ 12.89	\$ 13.28	\$ 13.41	\$ 13.53	\$ 13.66	\$ 13.79	\$ 13.92	\$ 13.75
Mar	\$ 12.67	\$ 12.81	\$ 12.67	\$ 13.05	\$ 13.18	\$ 13.30	\$ 13.43	\$ 13.56	\$ 13.68	\$ 13.33
Apr	\$ 12.88	\$ 12.01	\$ 12.01	\$ 12.37	\$ 12.49	\$ 12.61	\$ 12.73	\$ 12.85	\$ 12.97	\$ 12.71
May	\$ 13.96	\$ 10.88	\$ 10.88	\$ 11.21	\$ 11.32	\$ 11.42	\$ 11.53	\$ 11.64	\$ 11.75	\$ 11.68
Jun	\$ 15.38	\$ 13.10	\$ 13.10	\$ 13.49	\$ 13.62	\$ 13.76	\$ 13.89	\$ 14.02	\$ 14.15	\$ 13.23
Jul	\$ 15.59	\$ 14.77	\$ 14.77	\$ 15.21	\$ 15.36	\$ 15.51	\$ 15.66	\$ 15.80	\$ 15.95	\$ 12.94
Aug	\$ 16.52	\$ 14.99	\$ 14.99	\$ 15.44	\$ 15.59	\$ 15.74	\$ 15.89	\$ 16.04	\$ 16.19	\$ 14.47
Sep	\$ 19.81	\$ 15.10	\$ 15.10	\$ 15.55	\$ 15.70	\$ 15.86	\$ 16.01	\$ 16.16	\$ 16.31	\$ 15.50
Oct	\$ 18.13	\$ 16.04	\$ 16.04	\$ 16.52	\$ 16.68	\$ 16.84	\$ 17.00	\$ 17.16	\$ 17.32	\$ 15.97
Nov	\$ 14.87	\$ 16.84	\$ 14.87	\$ 15.32	\$ 15.46	\$ 15.61	\$ 15.76	\$ 15.91	\$ 16.06	\$ 16.39
Dec	\$ 13.48	\$ 17.34	\$ 13.48	\$ 13.88	\$ 14.02	\$ 14.15	\$ 14.29	\$ 14.42	\$ 14.56	\$ 17.02
Jan-99	\$ 13.45	\$ 16.27	\$ 13.45	\$ 13.85	\$ 13.99	\$ 14.12	\$ 14.26	\$ 14.39	\$ 14.53	\$ 16.77
Feb	\$ 12.71	\$ 10.27	\$ 10.27	\$ 10.58	\$ 10.68	\$ 10.78	\$ 10.89	\$ 10.99	\$ 11.09	\$ 12.15
Mar	\$ 12.56	\$ 11.62	\$ 11.62	\$ 11.97	\$ 12.08	\$ 12.20	\$ 12.32	\$ 12.43	\$ 12.55	\$ 13.03
Apr	\$ 11.26	\$ 11.81	\$ 11.26	\$ 11.60	\$ 11.71	\$ 11.82	\$ 11.94	\$ 12.05	\$ 12.16	\$ 11.49
May	\$ 11.53	\$ 11.26	\$ 11.26	\$ 11.60	\$ 11.71	\$ 11.82	\$ 11.94	\$ 12.05	\$ 12.16	\$ 11.75
Jun	\$ 13.14	\$ 11.42	\$ 11.42	\$ 11.76	\$ 11.88	\$ 11.99	\$ 12.11	\$ 12.22	\$ 12.33	\$ 11.94
Jul	\$ 12.79	\$ 13.59	\$ 12.79	\$ 13.17	\$ 13.30	\$ 13.43	\$ 13.56	\$ 13.69	\$ 13.81	\$ 12.74
Aug	\$ 12.77	\$ 15.79	\$ 12.77	\$ 13.15	\$ 13.28	\$ 13.41	\$ 13.54	\$ 13.66	\$ 13.79	\$ 13.26

Sep	\$	12.67	\$	16.26	\$	12.67	\$	13.05	\$	13.18	\$	13.31	\$	13.43	\$	13.56	\$	13.69	\$	14.99
Oct	\$	11.83	\$	11.49	\$	11.49	\$	11.83	\$	11.95	\$	12.06	\$	12.18	\$	12.29	\$	12.41	\$	12.86
Nov	\$	11.54	\$	9.79	\$	9.79	\$	10.08	\$	10.18	\$	10.28	\$	10.38	\$	10.48	\$	10.57	\$	11.61
Dec	\$	10.87	\$	9.63	\$	9.63	\$	9.92	\$	10.02	\$	10.11	\$	10.21	\$	10.30	\$	10.40	\$	10.45
Jan-00	\$	10.73	\$	10.05	\$	10.05	\$	10.35	\$	10.45	\$	10.55	\$	10.65	\$	10.75	\$	10.85	\$	10.48
Feb	\$	10.80	\$	9.54	\$	9.54	\$	9.83	\$	9.92	\$	10.02	\$	10.11	\$	10.21	\$	10.30	\$	10.10
Mar	\$	11.00	\$	9.54	\$	9.54	\$	9.83	\$	9.92	\$	10.02	\$	10.11	\$	10.21	\$	10.30	\$	10.18
Apr	\$	11.38	\$	9.41	\$	9.41	\$	9.69	\$	9.79	\$	9.88	\$	9.97	\$	10.07	\$	10.16	\$	10.15
May	\$	11.91	\$	9.37	\$	9.37	\$	9.65	\$	9.74	\$	9.84	\$	9.93	\$	10.03	\$	10.12	\$	10.27
Jun	\$	12.38	\$	9.46	\$	9.46	\$	9.74	\$	9.84	\$	9.93	\$	10.03	\$	10.12	\$	10.22	\$	10.43
Jul	\$	11.87	\$	10.66	\$	10.66	\$	10.98	\$	11.09	\$	11.19	\$	11.30	\$	11.41	\$	11.51	\$	11.36
Aug	\$	11.87	\$	10.13	\$	10.13	\$	10.43	\$	10.54	\$	10.64	\$	10.74	\$	10.84	\$	10.94	\$	10.97
Sep	\$	11.94	\$	10.76	\$	10.76	\$	11.08	\$	11.19	\$	11.30	\$	11.41	\$	11.51	\$	11.62	\$	11.46
Oct	\$	11.81	\$	10.02	\$	10.02	\$	10.32	\$	10.42	\$	10.52	\$	10.62	\$	10.72	\$	10.82	\$	10.88
Nov	\$	13.00	\$	8.57	\$	8.57	\$	8.83	\$	8.91	\$	9.00	\$	9.08	\$	9.17	\$	9.26	\$	10.00
Dec	\$	13.27	\$	9.37	\$	9.37	\$	9.65	\$	9.74	\$	9.84	\$	9.93	\$	10.03	\$	10.12	\$	10.60
Jan-01	\$	12.13	\$	9.99	\$	9.99	\$	10.29	\$	10.39	\$	10.49	\$	10.59	\$	10.69	\$	10.79	\$	11.02
Feb	\$	12.70	\$	10.27	\$	10.27	\$	10.58	\$	10.68	\$	10.78	\$	10.89	\$	10.99	\$	11.09	\$	11.15
Mar	\$	13.46	\$	11.42	\$	11.42	\$	11.76	\$	11.88	\$	11.99	\$	12.11	\$	12.22	\$	12.33	\$	12.20
Apr	\$	14.41	\$	12.06	\$	12.06	\$	12.42	\$	12.54	\$	12.66	\$	12.78	\$	12.90	\$	13.02	\$	12.89
May	\$	15.04	\$	13.83	\$	13.83	\$	14.24	\$	14.38	\$	14.52	\$	14.66	\$	14.80	\$	14.94	\$	14.50

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	Blend - CIII
	@3%	@4%	@5%	@6%	@7%	@8%	
----- in all comparisons this month Blend less last month CIII -----							
\$ 0.89	\$ 0.55	\$ 0.43	\$ 0.32	\$ 0.20	\$ 0.08	\$ (0.03)	
\$ 0.45	\$ 0.08	\$ (0.04)	\$ (0.17)	\$ (0.29)	\$ (0.42)	\$ (0.54)	
\$ (0.43)	\$ (0.80)	\$ (0.93)	\$ (1.05)	\$ (1.18)	\$ (1.30)	\$ (1.43)	
\$ 0.05	\$ (0.29)	\$ (0.41)	\$ (0.52)	\$ (0.64)	\$ (0.75)	\$ (0.87)	
\$ 0.58	\$ 0.26	\$ 0.15	\$ 0.04	\$ (0.06)	\$ (0.17)	\$ (0.28)	
\$ 0.53	\$ 0.21	\$ 0.10	\$ (0.01)	\$ (0.11)	\$ (0.22)	\$ (0.33)	
\$ 1.08	\$ 0.75	\$ 0.65	\$ 0.54	\$ 0.43	\$ 0.32	\$ 0.21	
\$ 0.46	\$ 0.10	\$ (0.02)	\$ (0.13)	\$ (0.25)	\$ (0.37)	\$ (0.49)	
\$ 1.22	\$ 0.86	\$ 0.75	\$ 0.63	\$ 0.51	\$ 0.39	\$ 0.27	
\$ 0.51	\$ 0.13	\$ (0.00)	\$ (0.13)	\$ (0.26)	\$ (0.39)	\$ (0.52)	
\$ 0.66	\$ 0.27	\$ 0.14	\$ 0.01	\$ (0.12)	\$ (0.25)	\$ (0.38)	
\$ 1.16	\$ 0.79	\$ 0.66	\$ 0.54	\$ 0.41	\$ 0.29	\$ 0.16	
\$ 1.71	\$ 1.35	\$ 1.23	\$ 1.11	\$ 0.99	\$ 0.87	\$ 0.75	
\$ 0.44	\$ 0.05	\$ (0.08)	\$ (0.20)	\$ (0.33)	\$ (0.46)	\$ (0.59)	
\$ 0.04	\$ (0.34)	\$ (0.47)	\$ (0.59)	\$ (0.72)	\$ (0.85)	\$ (0.97)	
\$ (0.33)	\$ (0.69)	\$ (0.81)	\$ (0.93)	\$ (1.05)	\$ (1.17)	\$ (1.29)	
\$ 2.35	\$ 2.02	\$ 1.91	\$ 1.81	\$ 1.70	\$ 1.59	\$ 1.48	
\$ (0.16)	\$ (0.55)	\$ (0.68)	\$ (0.82)	\$ (0.95)	\$ (1.08)	\$ (1.21)	
\$ (0.30)	\$ (0.74)	\$ (0.89)	\$ (1.04)	\$ (1.19)	\$ (1.33)	\$ (1.48)	
\$ 0.51	\$ 0.06	\$ (0.09)	\$ (0.24)	\$ (0.39)	\$ (0.54)	\$ (0.69)	
\$ 0.87	\$ 0.42	\$ 0.27	\$ 0.12	\$ (0.04)	\$ (0.19)	\$ (0.34)	
\$ 0.35	\$ (0.13)	\$ (0.29)	\$ (0.45)	\$ (0.61)	\$ (0.77)	\$ (0.93)	
\$ 2.15	\$ 1.70	\$ 1.56	\$ 1.41	\$ 1.26	\$ 1.11	\$ 0.96	
\$ 3.29	\$ 2.89	\$ 2.75	\$ 2.62	\$ 2.48	\$ 2.35	\$ 2.21	
\$ (1.30)	\$ (1.70)	\$ (1.84)	\$ (1.97)	\$ (2.11)	\$ (2.24)	\$ (2.38)	
\$ 2.76	\$ 2.45	\$ 2.35	\$ 2.25	\$ 2.14	\$ 2.04	\$ 1.94	
\$ (0.13)	\$ (0.48)	\$ (0.59)	\$ (0.71)	\$ (0.83)	\$ (0.94)	\$ (1.06)	
\$ 0.49	\$ 0.15	\$ 0.04	\$ (0.07)	\$ (0.19)	\$ (0.30)	\$ (0.41)	
\$ 0.68	\$ 0.34	\$ 0.23	\$ 0.12	\$ 0.00	\$ (0.11)	\$ (0.22)	
\$ 1.32	\$ 0.98	\$ 0.86	\$ 0.75	\$ 0.63	\$ 0.52	\$ 0.41	
\$ 0.47	\$ 0.09	\$ (0.04)	\$ (0.17)	\$ (0.30)	\$ (0.43)	\$ (0.55)	

		\$ 2.22	\$ 1.84	\$ 1.71	\$ 1.58	\$ 1.45	\$ 1.33	\$ 1.20
		\$ 0.19	\$ (0.19)	\$ (0.32)	\$ (0.45)	\$ (0.57)	\$ (0.70)	\$ (0.83)
		\$ 0.12	\$ (0.22)	\$ (0.34)	\$ (0.45)	\$ (0.57)	\$ (0.68)	\$ (0.80)
		\$ 0.66	\$ 0.37	\$ 0.27	\$ 0.17	\$ 0.07	\$ (0.03)	\$ (0.12)
		\$ 0.85	\$ 0.56	\$ 0.46	\$ 0.37	\$ 0.27	\$ 0.18	\$ 0.08
		\$ 0.05	\$ (0.25)	\$ (0.35)	\$ (0.45)	\$ (0.55)	\$ (0.65)	\$ (0.75)
		\$ 0.64	\$ 0.35	\$ 0.26	\$ 0.16	\$ 0.07	\$ (0.03)	\$ (0.12)
		\$ 0.61	\$ 0.32	\$ 0.23	\$ 0.13	\$ 0.04	\$ (0.06)	\$ (0.15)
		\$ 0.86	\$ 0.58	\$ 0.48	\$ 0.39	\$ 0.30	\$ 0.20	\$ 0.11
		\$ 1.06	\$ 0.78	\$ 0.69	\$ 0.59	\$ 0.50	\$ 0.40	\$ 0.31
		\$ 1.90	\$ 1.62	\$ 1.52	\$ 1.43	\$ 1.33	\$ 1.24	\$ 1.14
		\$ 0.31	\$ (0.01)	\$ (0.12)	\$ (0.22)	\$ (0.33)	\$ (0.44)	\$ (0.54)
		\$ 1.33	\$ 1.03	\$ 0.92	\$ 0.82	\$ 0.72	\$ 0.62	\$ 0.52
		\$ 0.12	\$ (0.20)	\$ (0.31)	\$ (0.42)	\$ (0.53)	\$ (0.63)	\$ (0.74)
		\$ (0.02)	\$ (0.32)	\$ (0.42)	\$ (0.52)	\$ (0.62)	\$ (0.72)	\$ (0.82)
		\$ 2.03	\$ 1.77	\$ 1.69	\$ 1.60	\$ 1.52	\$ 1.43	\$ 1.34
		\$ 1.65	\$ 1.37	\$ 1.28	\$ 1.18	\$ 1.09	\$ 0.99	\$ 0.90
		\$ 1.16	\$ 0.86	\$ 0.76	\$ 0.66	\$ 0.56	\$ 0.46	\$ 0.36
		\$ 1.93	\$ 1.62	\$ 1.52	\$ 1.42	\$ 1.31	\$ 1.21	\$ 1.11
		\$ 1.47	\$ 1.13	\$ 1.01	\$ 0.90	\$ 0.78	\$ 0.67	\$ 0.56
		\$ 2.44	\$ 2.08	\$ 1.96	\$ 1.84	\$ 1.72	\$ 1.60	\$ 1.48

All 53	Average	\$ 0.85	\$ 0.50	\$ 0.38	\$ 0.26	\$ 0.15	\$ 0.03	\$ (0.08)
All 53	Minimum	\$ (1.30)	\$ (1.70)	\$ (1.84)	\$ (1.97)	\$ (2.11)	\$ (2.24)	\$ (2.38)
All 53	Maximum	\$ 3.29	\$ 2.89	\$ 2.75	\$ 2.62	\$ 2.48	\$ 2.35	\$ 2.21
First 36	Average	\$ 0.73	\$ 0.36	\$ 0.23	\$ 0.11	\$ (0.01)	\$ (0.14)	\$ (0.26)
First 36	Minimum	\$ (1.30)	\$ (1.70)	\$ (1.84)	\$ (1.97)	\$ (2.11)	\$ (2.24)	\$ (2.38)
First 36	Maximum	\$ 3.29	\$ 2.89	\$ 2.75	\$ 2.62	\$ 2.48	\$ 2.35	\$ 2.21
Last 17	Average	\$ 1.08	\$ 0.78	\$ 0.68	\$ 0.58	\$ 0.48	\$ 0.38	\$ 0.28
Last 17	Minimum	\$ (0.02)	\$ (0.32)	\$ (0.42)	\$ (0.52)	\$ (0.62)	\$ (0.72)	\$ (0.82)
Last 17	Maximum	\$ 2.44	\$ 2.08	\$ 1.96	\$ 1.84	\$ 1.72	\$ 1.60	\$ 1.48

Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII Blend - CIII  
@3% @4% @5% @6% @7% @8%



Percentage Class III Divided by the Blend Price

CIII/Blend	CIII/Blend @3%	CIII/Blend @4%	CIII/Blend @5%	CIII/Blend @6%	CIII/Blend @7%	CIII/Blend @8%
----- in all comparisons this month Blend less last month CIII-----						
93%	96%	97%	97%	98%	99%	100%
96%	99%	100%	101%	102%	103%	104%
104%	107%	108%	109%	110%	111%	112%
100%	103%	104%	105%	106%	107%	108%
95%	98%	99%	100%	101%	101%	102%
95%	98%	99%	100%	101%	102%	103%
91%	94%	95%	96%	96%	97%	98%
96%	99%	100%	101%	102%	103%	104%
91%	93%	94%	95%	96%	97%	98%
96%	99%	100%	101%	102%	103%	104%
95%	98%	99%	100%	101%	102%	103%
91%	94%	95%	96%	97%	98%	99%
88%	90%	91%	92%	93%	94%	95%
97%	100%	101%	102%	103%	103%	104%
100%	103%	104%	105%	106%	107%	108%
103%	106%	107%	108%	109%	110%	111%
82%	85%	86%	86%	87%	88%	89%
101%	104%	105%	106%	107%	108%	109%
102%	105%	106%	107%	108%	109%	110%
97%	100%	101%	102%	103%	103%	104%
95%	97%	98%	99%	100%	101%	102%
98%	101%	102%	103%	104%	105%	106%
87%	90%	91%	92%	93%	93%	94%
80%	83%	84%	84%	85%	86%	87%
111%	114%	115%	116%	117%	118%	120%
79%	81%	82%	83%	84%	84%	85%
101%	104%	105%	106%	107%	108%	109%
96%	99%	100%	101%	102%	103%	103%
94%	97%	98%	99%	100%	101%	102%
90%	92%	93%	94%	95%	96%	97%
96%	99%	100%	101%	102%	103%	104%

85%	88%	89%	89%	90%	91%	92%
99%	102%	102%	103%	104%	105%	106%
99%	102%	103%	104%	105%	106%	107%
94%	96%	97%	98%	99%	100%	101%
92%	95%	96%	96%	97%	98%	99%
100%	102%	103%	104%	105%	106%	107%
94%	97%	97%	98%	99%	100%	101%
94%	97%	98%	99%	100%	101%	102%
92%	94%	95%	96%	97%	98%	99%
90%	93%	93%	94%	95%	96%	97%
83%	86%	87%	87%	88%	89%	90%
97%	100%	101%	102%	103%	104%	105%
88%	91%	92%	93%	94%	95%	95%
99%	102%	103%	104%	105%	106%	107%
100%	103%	104%	105%	106%	107%	108%
81%	83%	84%	85%	86%	87%	87%
85%	88%	88%	89%	90%	91%	92%
90%	92%	93%	94%	95%	96%	97%
84%	87%	88%	88%	89%	90%	91%
89%	91%	92%	93%	94%	95%	96%
83%	86%	86%	87%	88%	89%	90%

All 53	Average	93%	96%	97%	98%	99%	100%	101%
All 53	Minimum	79%	81%	82%	83%	84%	84%	85%
All 53	Maximum	111%	114%	115%	116%	117%	118%	120%
First 36	Average	95%	98%	99%	99%	100%	101%	102%
First 36	Minimum	79%	81%	82%	83%	84%	84%	85%
First 36	Maximum	111%	114%	115%	116%	117%	118%	120%
Last 17	Average	91%	93%	94%	95%	96%	97%	98%
Last 17	Minimum	81%	83%	84%	85%	86%	87%	87%
Last 17	Maximum	100%	103%	104%	105%	106%	107%	108%

Blend - CIII    Blend - CIII    Blend - CIII    Blend - CIII    Blend - CIII    Blend - CIII    Blend - CIII  
                  @3%            @4%            @5%            @6%            @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
	@3%	@4%	@5%	@6%	@7%	@8%

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

- 95%
- 98%
- 100%
- 99%
- 97%
- 94%
- 94%
- 93%
- 94%
- 94%
- 94%
- 91%
- 92%
- 95%
- 100%
- 95%
- 95%
- 95%
- 100%
- 98%
- 96%
- 93%
- 89%
- 93%
- 90%
- 97%
- 92%
- 97%
- 93%
- 93%

90%						
93%						
94%						
97%						
95%	98%	99%	100%	101%	101%	102%
95%	98%	99%	100%	101%	102%	103%
95%	98%	99%	100%	101%	102%	103%
96%	99%	100%	101%	101%	102%	103%
93%	96%	97%	98%	99%	100%	101%
92%	95%	95%	96%	97%	98%	99%
88%	91%	92%	93%	94%	94%	95%
90%	93%	94%	95%	96%	96%	97%
90%	92%	93%	94%	95%	96%	97%
95%	98%	99%	100%	101%	101%	102%
96%	99%	100%	101%	102%	103%	103%
93%	96%	97%	98%	99%	100%	101%
89%	91%	92%	93%	94%	95%	96%
85%	88%	89%	89%	90%	91%	92%
86%	89%	90%	91%	91%	92%	93%
87%	90%	91%	92%	93%	94%	94%
85%	88%	89%	90%	90%	91%	92%

All 53	Average	94%
All 53	Minimum	85%
All 53	Maximum	100%

First 36	Average	95%
First 36	Minimum	89%
First 36	Maximum	100%

Last 17	Average	91%	94%	95%	96%	97%	98%	98%
Last 17	Minimum	85%	88%	89%	89%	90%	91%	92%
Last 17	Maximum	96%	99%	100%	101%	102%	103%	103%

Blend - CIII   Blend - CIII   Blend - CIII   Blend - CIII   Blend - CIII   Blend - CIII   Blend - CIII  
@3%   @4%   @5%   @6%   @7%   @8%

Comparison of Alternatives for Federal Order 1030 Advanced Price  
 Three Month Moving Average of Class III as Percent of Blend

