Southwest market area, particularly in New Mexico (ranging from deserts to high mountain ranges). Northwest New Mexico is part of the Colorado Plateau, an area of broad valleys and plains as well as deep canyons and mesas. The Rocky Mountains extend into the north central area of the state. The Basin and Range region, generally characterized by ranges or isolated mountains interspersed with valleys, desert basins or high plains, is located in central and southwestern New Mexico, as well as western Texas. The Great Plains cover the eastern third of New Mexico and extend through the Texas Panhandle in north Texas and much of central Texas. This area is characteristically dry and treeless and also encompasses Texas hill country and the Edwards Plateau. The Osage Plains covers the area in Texas from the Oklahoma-Texas border into the south central part of the state and the low and flat West Gulf Coastal Plain covers the eastern two-fifths of the state.

Climates in this region also vary. The western part of the region, including New Mexico, southwest Texas and the Texas Panhandle, is semi-arid to arid with wide ranges in both daily and annual temperatures. The southern tip of Texas and the Gulf coast are more humid and subtropical. For some of the area there are few agricultural uses other than dairy farming. Dairy products were the 2nd and 3rd highest revenue-producing agricultural commodities in New Mexico and Texas, respectively, in 1996, accounting for nearly one-third of agricultural receipts in New Mexico, but less than 10 percent in Texas.

*Population*

According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 21.3 million. The 26 Metropolitan Statistical Areas (MSA) in the consolidated Southwest market account for 81.3 percent of the total market area population. About 55 percent of the Southwest population is located in the 4 most populous MSAs. Seven MSAs have populations greater than 500,000; their total population is 63.4 percent of the Southwest population. Because of the large number of MSAs in the Southwest market, only those areas with populations greater than 500,000 are described in detail.

Almost 92 percent of the Southwest market's population is located in Texas, which has 19.5 million people. Twenty-three of the 26 Southwest market MSAs are in Texas. About 66 percent of Texas' population is concentrated in 6 areas, which include the Southwest area's top 5 population centers: the Dallas-Fort Worth (Dallas) MSA in northeastern Texas, with a population of 4.7 million; the Houston-Galveston-Brazoria (Houston) MSA in southeastern Texas near the Gulf of Mexico, with a population of 4.3 million; the San Antonio MSA in south central Texas, with a population of 1.5 million; the Austin-San Marcos (Austin) MSA in central Texas, with a population of 1 million; the El Paso MSA located in the far western corner of Texas on the Texas-New Mexico-Mexico border, with a population of 702,000; and the McAllen-Pharr-Edinburg MSA located at the southern tip of Texas, with a population of 511,000.

New Mexico's population is about 1.7 million. The remaining 3 of the 26 Southwest market MSAs are located in New Mexico. About 40 percent of the state's population is located in the Albuquerque area, just northwest of central New Mexico.

In the remainder of the Southwest marketing area, the 3 Colorado counties have a population of about 71,000.

*Fluid Per Capita Consumption*

Estimates of fluid per capita consumption vary from 17.1 pounds of fluid milk per month per person in Texas to 17.5 in New Mexico to 18.8 in Colorado. Multiplying the individual states' consumption rate by its population in the consolidated marketing area results in a fluid milk consumption rate of 364.5 million pounds of fluid milk per month for the consolidated Southwest marketing area.

In October 1997, the fully regulated plants in Orders 126 and 138 had route distribution totaling 342.5 million pounds. Ninety-eight percent, or 328 million pounds, was distributed within the consolidated Southwest marketing area. Handlers fully regulated under other Federal orders had about 21 million pounds of route distribution into the Southwest market area. Producer-handlers in the Southwest area distributed about 5 million pounds of route distribution in the Southwest marketing area in October 1997, while partially-regulated plants and plants that would be exempt on the basis of size distributed approximately .5 million pounds.

*Production*

In October 1997, 1,570 producers from 144 counties in 5 states pooled 650 million pounds of producer milk on Orders 126 and 138. Over 99 percent of this producer milk came from counties included in the consolidated Southwest marketing area. About 55 percent of the combined market's producer milk was provided by producers in six counties.

About 455 million pounds of milk were pooled on either Order 126 or 138 from 1,345 producers in 118 Texas counties in October 1997. Three Texas counties were among the top 6 in volume pooled: Erath (1st), Hopkins (4th) and Comanche (6th). Erath County—located about 75 miles west of Dallas—pooled 104.5 million pounds on Order 126 (and an additional 9 million pounds on 3 other Federal orders). Hopkins County—located about 50 miles east of Dallas—pooled 34 million pounds on Order 126 and another 15 million pounds on 4 other Federal orders. Contiguous to and lying southwest of Erath County, Comanche County pooled 33 million pounds on Order 126 and about .5 million pounds on 3 other Federal orders.

Of the 271 million pounds of milk pooled on either Order 126 or 138 from 185 producers in 12 New Mexico counties, 69 percent was produced in the following three counties, all among the top 6 in volume pooled: Chaves (2nd), Dona Ana (3rd) and Roosevelt (5th). Chaves County—located about 200 miles southeast of Albuquerque—pooled 92 million pounds on Orders 126 and 138 in October 1997 and an additional 28 million pounds on 3 other Federal orders. Dona Ana County, located over 200 miles south of Albuquerque, contiguous to El Paso County, TX, and the U.S.-Mexico border, pooled 61 million pounds of producer milk on Order 138. Contiguous to and lying northeast of Chaves County, Roosevelt County pooled 33 million pounds on Orders 126 and 138 and another 6.6 million on 4 other Federal orders.

In October 1997, producer milk for Orders 126 and 138 also originated in one of the Colorado counties in the Southwest marketing area, and in counties in Arkansas and Oklahoma. However, the combined amount of producer milk pooled from these areas is less than 1 percent of the total producer milk pooled in these Orders.

*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, 31 distributing plants located in the consolidated Southwest marketing area would be expected to be associated with the Southwest market, including 21 fully regulated distributing plants, 2 partially regulated, 2 exempt and 6 producer-handlers. None of these plants' regulatory status is expected to change as a result of the consolidation process.

Of the 21 fully regulated plants, 17 are located in the top six MSA regions.

Since October 1997, it is known that 3 plants (2 fully regulated and 1 producer-handler) have gone out of business. The fully regulated plants were located in El Paso, Texas, and in Albuquerque, New Mexico. The producer-handler was located in Hobbs, New Mexico.

Of the 31 distributing plants that would be located in the consolidated Southwest marketing area, 24 are in Texas, and 7 are in New Mexico. Twenty of the Texas plants would be fully regulated. They are as follows: 6 in the Dallas area, 3 in the Houston area, 2 in the San Antonio area, 1 in the Austin area, and 2 in the El Paso area, and 6 located throughout the state. One of the Texas distributing plants was associated with Order 30 (Chicago Regional) in October 1997, and is expected to be partially regulated in the Southwest market. Two producer-handlers are located in Texas, one in the El Paso area and the other in the central part of the state.

Just over half of New Mexico's 7 distributing plants are located in the Albuquerque area. One fully regulated handler and 3 producer-handlers are located in this population center. Of the remaining 3 plants located in New Mexico, there are 2 plants that would be exempt on the basis of size (both located in central New Mexico) and 1 producer-handler (located southeast of Albuquerque).

*Utilization*

According to October 1997 pool statistics, the Class I utilization percentages for the Texas and New Mexico-West Texas markets were 56 and 44 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 Southwest order, the potential impact of this consolidation on producers who supply the current market areas is estimated to be: Texas, a 5-cent per cwt decrease (from $14.09 to $14.04), and New Mexico-West Texas, a 10-cent per cwt increase (from $13.51 to $13.61). The weighted average use value for the consolidated Southwest order market is estimated to be $13.97 per cwt. For October 1997, combined Class I utilization for Orders 126 and 138 was 53.4 percent based on 347.0 million pounds of producer milk used in Class I out of 649.9 million total producer milk pounds.

*Other Plants*

Located within the Southwest marketing area during May 1997 were 17 manufacturing plants: 11 in Texas (2 in the Dallas MSA and 1 in the El Paso MSA) and six in New Mexico. Six of the 17 plants were pool plants. All of these pool plants were manufacturing plants—one manufactured primarily Class II products, two manufactured primarily powder, two manufactured primarily cheese and one manufactured primarily other products. Of the 11 nonpool plants in the Southwest marketing area, all were manufacturing plants—one manufactured primarily powder, four manufactured primarily cheese, one manufactured primarily other products and five manufactured primarily Class II products.

*Cooperative Associations*

In December 1997, three cooperative associations marketed about 95 percent of the milk pooled under both of the orders consolidated in the Southwest area: Dairy Farmers of America (DFA); and Select Milk Producers, Inc. (Select); and Elite Milk Producers, Inc. (Elite).

*Criteria for Consolidation*

Nearly all of the route disposition by Order 126 and 138 handlers is distributed within the consolidated marketing area. In addition, nearly all of the milk that would be pooled under the consolidated order, based on October 1997 data, originates within the marketing area. Two cooperatives market the vast majority of milk within the consolidated area.

*Discussion of Comments and Alternatives*

Prior to issuance of the proposed rule, alternatives to the consolidation of the Texas and New Mexico-West Texas order areas that were considered included the consolidation of east Texas with the Southeast area. This alternative consolidation was examined at length and found to have little overlap of either fluid milk product disposition or producer milk movements.

Only one comment pertained specifically to the consolidated Southwest marketing area. This was a comment from DFA that discussed general support for the marketing areas proposed by USDA, with no objection to the Southwest marketing area, as proposed.

**Arizona-Las Vegas**

The consolidated Arizona-Las Vegas marketing area is comprised of the current Central Arizona (Order 131) marketing area, one county in Nevada which currently is in the Great Basin (Order 139) marketing area, and currently unregulated counties in Arizona. There are 16 counties in this consolidated marketing area. This area remains unchanged from the proposed rule.

*Geography*

The Arizona-Las Vegas market is described geographically as follows: All counties (15) in Arizona (6 whole and 1 partial currently are part of Order 131, and 8 whole and 1 partial currently are unregulated) and Clark County, Nevada, which currently is part of the Great Basin marketing area. The market extends about 400 miles north to south from Arizona's border with Utah (and Nevada's southernmost county) to the U.S.-Mexico border. The market ranges from 300 to 375 miles east to west from the Arizona-New Mexico border to the Arizona/southern Nevada-California border.

The Arizona-Las Vegas marketing area is contiguous to two other consolidated marketing areas, the Great Basin portion of the Western area to the north and the New Mexico-West Texas portion of the Southwest area to the east. California, which is not part of the Federal order system, lies to the west and Mexico is south of this marketing area.

Arizona can be divided into three geographic regions—the Sonoran Desert, in the southwest; the Colorado Plateau, in the north; and the Mexican Highland, mainly in the central and southeastern parts of the state. With each of these regions, three distinct climatic zones exist: The Sonoran Desert is hot in the summer but can experience frost in the winter; the Colorado Plateau is hot and dry in the summer and cold and windy in the winter; and the Mexican Highland receives significant precipitation in both summer and winter. This region is cooler in both summer and winter than the Sonoran Desert region.

These topographical and climatic conditions apparently are conducive to milk production. Dairy products represent one of the principal agricultural commodities (2nd and 3rd) in the States of Arizona and Nevada, respectively, representing 16.6 and 21.7 percent of total agricultural receipts of the two States in 1996.

*Population*

Arizona is one the fastest-growing states in the United States. According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 5.7 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Phoenix-Mesa (Phoenix) area, located in

central Arizona approximately 125 miles north of the U.S.-Mexico border in the Sonoran Desert region. About 250 miles to the northwest of Phoenix is the Las Vegas, Nevada, area, the second-largest population center in this marketing area. The Las Vegas MSA is comprised of three counties: Clark and Nye counties in Nevada and Mohave County in Arizona. Almost half of this market's population is in the Phoenix area, and over 70 percent is accounted for when Las Vegas is added.

*Fluid Per Capita Consumption*

Based on the population figure of 5.7 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the Arizona-Las Vegas marketing area is estimated at 114 million pounds per month. In October 1997, plants that would have been fully regulated distributing plants in the Arizona-Las Vegas order had route disposition within the market of approximately 95 million pounds, representing 94 percent of their route disposition. Another 6.5 million pounds of milk was distributed in the consolidated marketing area by 2 handlers expected to be fully regulated under the consolidated Western Federal order and by 10 California plants that are partially regulated under the Central Arizona and Great Basin orders.

*Milk Production*

In October 1997, almost 196 million pounds of milk was pooled in the Central Arizona market, supplied by over 100 producers located in fewer than 10 counties in Arizona and California. Over 95 percent of the Central Arizona milk was produced within the marketing area. Further, over 90 percent of the producer milk produced within the Order 131 area was produced in Maricopa County, Arizona, where Phoenix, this market's largest city, also is located. With 177 million pounds of producer milk for October 1997, Maricopa County produces almost twice the amount of milk required to meet the fluid milk needs of the entire marketing area. Arizona producers did not supply milk to any other Federal order; however, it is known that producer milk moves from both Arizona and Clark County, Nevada, to southern California. These figures do not reflect the producer milk associated with Anderson Dairy, the Las Vegas handler who has been pooled on Order 139. There is only one producer located in Clark County, Nevada. Anderson's milk supply comes from a cooperative association in southern California.

*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, 8 distributing plants would be expected to be associated with the consolidated Arizona-Las Vegas marketing area, including 5 fully regulated distributing plants (all currently pool plants), 1 exempt plant and 2 producer-handlers. There are 4 distributing plants in the Phoenix area (all pool plants). Located in the Las Vegas MSA are one pool plant and a producer-handler. Another producer-handler is located in the Yuma area and the exempt plant is located in a currently-unregulated Arizona county, and has total route disposition of less than 150,000 pounds. All of the plants that are expected to be fully regulated under this consolidated order are located in areas that contain over 70 percent of the market's population.

*Utilization*

According to October 1997 pool statistics, the Class I utilization for the Central Arizona market was 46 percent. Due to restricted information, this calculation excludes receipts for the Las Vegas handler who currently is regulated under Order 139, but would be regulated under this order. Because the degree of consolidation for this market is very minor, little change in the Class I utilization percentage, and thus little change in producer returns, is expected in the Arizona-Las Vegas area as a result of the consolidation. For October 1997, Class I utilization for the Central Arizona market was 46.3 percent based on the use of 90.8 pounds of producer milk in Class I out of 195.9 total pounds of producer milk. The weighted average use value for the Arizona-Las Vegas market is estimated to be $13.84 per hundredweight.

*Other Plants*

For May 1997, 3 supply or manufacturing plants were located within the Arizona-Las Vegas marketing area: 2 in Arizona (both in the Phoenix area) and 1 in Nevada (in the Las Vegas area). One Arizona plant was a pool plant operated by the cooperative, manufacturing primarily cheese, while the other plants were nonpool plants manufacturing primarily Class II products.

*Cooperative Associations*

For December 1997, the only cooperative pooling milk under the Central Arizona order was United Dairymen of Arizona, which represented over 90 percent of the milk pooled under the Central Arizona order. Security Milk Producers Association, a cooperative based in California, supplies milk to the Las Vegas handler.

*Criteria for Consolidation*

Market data indicate that there are sales into the Las Vegas area by Central Arizona pool plants, and sales by both Phoenix and Las Vegas handlers into the unregulated areas along the southern part of the Nevada-Arizona border. Rapid population growth in the area between the two areas has greatly increased competition between the handlers in Phoenix and Las Vegas. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California. At the same time, the strength of the earlier relationship between the Las Vegas area and Utah clearly has declined since the merger of the Lake Mead and Great Basin order areas in 1988, which was based on data compiled up to 1986.

The Grand Canyon serves as a natural barrier in northwestern Arizona between this area and Great Basin. Although the actual consolidated order area extends to the Utah border, the portion of Arizona between the Grand Canyon and Utah is very sparsely populated, and is included in the consolidated marketing area primarily for the purpose of simplifying the marketing area description and easing handlers' burden of reporting out-of-area sales. The Colorado River forms much of the western boundary with California and Nevada. A north-south strip along the eastern edge of Arizona constituting approximately 30 percent of the State's territory is very sparsely populated, containing just over 5 percent of the population of the consolidated marketing area. This lightly populated desert area can be seen as another form of natural barrier to the movement of bulk and packaged milk.

*Discussion of Comments and Alternatives*

Prior to issuance of the proposed rule, alternatives to the consolidation of the Central Arizona marketing area and the southern Nevada portion of the Great Basin order area included retaining the Las Vegas area with the rest of the current Great Basin order area in the consolidated Western marketing area.

Twelve comments that pertained specifically to the proposed Arizona-Las Vegas area were filed by 10 commenters in response to the proposed rule. Anderson Dairy in Las Vegas advocated that Clark County, Nevada, in which Las

Vegas is located, be left out of any consolidated marketing area to better enable Anderson to compete with milk distributed from California and from the Salt Lake City area. Two comments from the Nevada Dairy Commission, suggesting that prices could be set within the State, and from a U.S. Senator from Nevada, requested that Clark County be excluded from any Federal order marketing area. Security Milk Producers Association, a cooperative that supplies milk to Anderson, first filed a comment supporting the proposed Arizona-Las Vegas area, and then filed a later comment urging that if Clark County cannot be deregulated and California does not become a Federal order, Clark County should be reunited with the rest of the consolidated Western order area. A commenter in the southern Nevada dairy industry supported the cooperative's view.

A comment from DFA suggested that the Great Basin marketing area be consolidated with the proposed Arizona-Las Vegas area rather than the proposed Western area, arguing that the price/utilization relationships of the Great Basin area are more similar to the Arizona-Las Vegas area than to the rest of the Western area. Darigold, Inc., urged that Las Vegas be reunited with Utah due to its proximity to the major production areas in Utah. Darigold suggested that if there is a linkage between the Phoenix and Las Vegas markets, those areas both should be included in the Western area.

A comment filed by the American Farm Bureau Federation recommended that the consolidation of the Central Arizona and Clark County areas be reconsidered in favor of a return to the consolidation of the Central Arizona area with the Southwest area, suggested in the Initial Preliminary Report on Order Consolidation.

A comment filed by the Dairy Institute of California supported the consolidation of the Las Vegas area with Arizona because such a combination would eliminate competitive distortions between these areas and California caused by the Las Vegas raw milk price levels. The Utah Farm Bureau stated that it does not oppose removing the Clark County, Nevada, area from the Great Basin order area and combining it with Arizona.

An increase in sales by Central Arizona pool plants into the Las Vegas area, and increased sales by both Phoenix and Las Vegas handlers into the unregulated area of rapidly-increasing population along the southern part of the Nevada-Arizona border, are factors that have greatly increased overlapping route distribution in these two areas. Mohave County, Arizona (currently-unregulated), and Clark County, Nevada, are two of the fastest-growing areas in the United States in terms of population. These two counties adjoin each other in southern Nevada and northwestern Arizona, and both are increasing in population significantly faster than the growth rates for their states. From 1990 to 1997, a period during which the population of the United States increased by 7.6 percent, the population of Arizona increased by 24.3 percent, while Mohave County's population increased by 37.8 percent. Over the same period, Clark County, Nevada, experienced a population increase of 49.2 percent, while the Nevada population increased by 39.5 percent. The rapidly-growing area between Phoenix and Las Vegas represents a growing market which can be expected to be served by both of the major population centers.

Ninety-five percent of the route dispositions of handlers who would be regulated under this order were distributed within the consolidated marketing area in October 1997, and approximately the same percentage of route disposition within the marketing area was by handlers who would be regulated under this consolidated order. Similarly, over 95 percent of the milk pooled under the current Central Arizona order is produced within the marketing area, and there is no indication of movements of producer milk between Utah and Nevada, as was the case when the Great Basin and Lake Mead orders were merged.

In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California, a relationship that does not pertain to any of the other areas in the region. The Las Vegas area's earlier relationship with southern Utah was based primarily on Utah as an important milk supply area for Las Vegas at the time of the merger of the Lake Mead and Great Basin order areas in 1988. That relationship clearly has ceased to exist. Therefore, the assertion by commenters that the Las Vegas, Nevada, area should continue to be included in the same marketing area with Utah or be unregulated does not reflect current marketing conditions.

**Western**

The consolidated Western marketing area is comprised of the current Southwestern Idaho-Eastern Oregon (Order 135) and Great Basin (Order 139) marketing areas, less one Nevada county (Clark) in Order 139 that is added to the Arizona-Las Vegas marketing area. There are 67 counties in this consolidated area. The Western Colorado (Order 134) marketing area, proposed to be part of the Western consolidated area, was changed to become part of the Central consolidated area.

*Geography*

The Western market is described geographically as follows: 28 counties in Idaho (18 currently in Order 135 and 10 in Order 139), 3 in eastern Nevada (all currently in Order 139), 5 in eastern Oregon (all currently in Order 135), all counties (29) in Utah (currently in Order 139) and 2 in the southwest corner of Wyoming (currently in Order 139). Measuring the extreme dimensions, this market extends about 625 miles north to south from Oregon and Idaho to Utah's boundary with Arizona. This market's east-to-west dimension is approximately 550 miles from the westernmost edge in central/eastern Oregon to the easternmost edge of the Utah/Colorado border.

The consolidated Western marketing area is contiguous to four of the consolidated marketing areas, the Pacific Northwest to the west and north of the Oregon portion of this market, Arizona-Las Vegas to the south, the Central market on the east, and the Southwest to the extreme southeast corner. Non-Federally regulated territory borders the Western market on the west-southwest (Nevada) and the north-northeast (Idaho and Wyoming).

In terms of physical geography, the Western marketing area has several regions: The Columbia Plateau in southern Idaho and northeastern Nevada, characterized by fertile soils; the Great Basin in southeast Idaho, nearly all of Nevada and the western third of Utah, described by ranges and parallel valleys; and the Colorado Plateau in the eastern half of Utah, characterized by gorges. In general, the Western market is quite dry, with temperatures tending to be extreme and affected by elevation.

*Population*

According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 3.2 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Salt Lake City-Ogden, Utah area (Salt Lake City). Salt Lake City is located in north central Utah. The Boise City, Idaho, area (Boise), the second largest population center in this marketing area, is located about 300 miles to the northwest of Salt Lake City. Provo-Orem, Utah, (Provo) the third largest population center, lies 40 miles

south of Salt Lake City. Forty percent of the market's population is in the Salt Lake City area, and over 60 percent is accounted for when Boise and Provo are added.

*Fluid Per Capita Consumption*

Based on the population figure of 3.2 million and an estimated per capita fluid milk consumption rate of 23 pounds of fluid milk per month, total fluid milk consumption in the Western marketing area is estimated at 73.6 million pounds per month. Plants that would have been fully regulated distributing plants in the Western order had route disposition within the market of 74 million pounds in October 1997; approximately 80 percent of this total is from Order 139 pool plants. The 7 producer handlers operating during this month had a combined route disposition of 1.6 million pounds. Additionally, 1.1 million pounds of route disposition came from other order plants, with about .5 million from partially regulated handlers and exempt plants.

*Milk Production*

In October 1997, over 457 million pounds of milk was associated with the Great Basin and Southwestern Idaho-Eastern Oregon markets, but only 304 million pounds of this milk was pooled because of class price relationships. The 457 million pounds of milk were produced by 952 dairy farmers located in 51 counties in California, Idaho, Nevada, Oregon, Utah and Wyoming. Over 95 percent of the milk associated with the market was produced within the marketing area. Four counties produced more than 50 percent of the milk available to be pooled. The three top producing counties in Idaho, Jerome, Gooding and Twin Falls counties, are all located in southwestern Idaho, about 130 miles southeast of Boise and 230 miles northwest of Salt Lake City. Jerome and Gooding counties each provided approximately twice as much milk as Twin Falls County, the third-largest county in terms of milk production in the Western market. The fourth-largest production county was Cache County in northeastern Utah, located about 80 miles north of Salt Lake City.

The three Idaho counties, part of the marketing area of the current Southwestern Idaho-Eastern Oregon order, are the top three milk-producing counties for Order 135 and among the top seven milk-producing counties for Order 139 in October 1997. Five counties in the current Southwestern Idaho-Eastern Oregon marketing area supplied one-quarter of the milk associated with the Great Basin order in October 1997.

*Distributing Plants*

Using the distributing plant list 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, 25 distributing plants would be expected to be associated with the Western marketing area, including 11 fully regulated distributing plants (all currently pool plants), 2 partially regulated (currently partially regulated), 1 exempt plant based on size (currently a pool plant), 7 producer-handlers, and 4 exempt plants based on institutional status (all were exempt as defined under current federal orders). Since October 1997, it is known that 2 distributing plants (1 fully regulated and 1 exempt plant) in Utah and 1 producer-handler in Arizona have gone out of business.

There would be 9 distributing plants in the Salt Lake City area (5 pool plants, 2 producer-handlers and 2 exempt plants). The Boise area would have 2 pool distributing plants, the Provo area would have 1 exempt plant and the Pocatello area would have 1 pool plant. The remaining 12 distributing plants are located in Idaho (4 plants: 2 pool, 1 exempt, and 1 producer-handler), Nevada (1 partially regulated plant), and Utah (7 plants: 1 pool, 1 partial, 1 exempt, 4 producer-handlers).

Fully regulated distributing plants are located in MSAs containing about half of the consolidated market's population, including the Pocatello, Idaho, MSA, with 2.2 percent of this market's population.

*Utilization*

According to October 1997 pool statistics, the Class I utilization percentages for the Southwestern Idaho-Eastern Oregon and Great Basin markets were 16 and 41 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 Western order, the potential impact of this market consolidation on producers who supply the current market areas is estimated to be an 11-cent per cwt increase (from $12.92 to $13.03) for Southwestern Idaho-Eastern Oregon, and a 9-cent per cwt decrease (from $13.25 to $13.16) for Great Basin. The weighted average use value for the consolidated Western order market is estimated to be $13.14 per cwt. For October 1997, combined Class I utilization for Orders 135 and 139 was 32.5 percent based on 98.8 million pounds of producer milk used in Class I out of 304.1 million total producer milk pounds.

A substantial amount of milk was omitted from the Southwestern Idaho-Eastern Oregon pool for October because of unusual price relationships. The annual Class I utilization percentage may be considered more representative for this market. For the year 1997, the annual Class I utilization for Southwestern Idaho-Eastern Oregon was 8.3 percent. It is estimated that the Class I use percentage for the consolidated market would be about 23 percent.

*Other Plants*

Eighteen supply or manufacturing plants were located within the consolidated Western marketing area during May 1997: 8 in Idaho (3 in the Boise area), 9 in Utah (2 in the Salt Lake City area) and 1 in Wyoming. Two of the 18 plants were pool plants; both manufacture primarily cheese. Of the 16 nonpool plants, 12 manufacture primarily cheese and 5 manufacture primarily soft or Class II products (including ice cream). Of the 8 Idaho plants, all but one manufacture cheese, while of the 9 Utah plants, 6 manufacture cheese and 3 manufacture soft products.

*Cooperative Associations*

For December 1997, four cooperatives representing 77 percent of the milk pooled under the two orders had membership in the consolidated Western marketing area. Western Dairymen Cooperative, Inc., a cooperative association that became part of Dairy Farmers of America, Inc., had membership in both the Southwestern Idaho-Eastern Oregon and Great Basin marketing areas. Magic Valley Quality Milk Producers, Inc., also had membership in Orders 135 and 139; Darigold Farms had membership in Order 135, and Security Milk Producers' Association had membership in Order 139.

*Criteria for Consolidation*

The consolidated Western market is composed of the current marketing areas of the Southwestern Idaho-Eastern Oregon and Great Basin markets, minus the Clark County, Nevada, portion of the Great Basin area. Sales overlap exists between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in Idaho. The two orders also share similar multiple component pricing plans. The Western Colorado order, proposed for inclusion in the Western area, was shown on the basis of October 1997 data to have developed a

closer relationship with the Eastern Colorado area than with the Great Basin order, and has been included in the consolidated Central area instead of the Western area.

*Discussion of Comments and Alternatives*

Prior to issuance of the proposed rule, alternatives to the consolidation of the Southwestern Idaho-Eastern Oregon, Great Basin (minus Clark County, Nevada) and Western Colorado marketing areas that were considered included leaving the Southwestern Idaho-Eastern Oregon area as a separate order and consolidating the Great Basin market with the Central Arizona, Western Colorado, and Eastern Colorado marketing areas, leaving both the Southwestern Idaho-Eastern Oregon and Great Basin areas as separate order areas, and combining the Western Colorado area with the Eastern Colorado area and other areas to the east. These alternative consolidations were examined at length and found to be less appropriate than the marketing areas delineated in the proposed rule in terms of overlap of either fluid milk product disposition or producer milk movements.

Fifteen comments that pertained specifically to the proposed Western marketing area were filed by 12 commenters in response to the proposed rule. Several of these comments objected to the separation of the Las Vegas area from the Great Basin portion of the Western area. These comments are addressed in the discussion of comments and alternatives considered for the consolidated Arizona-Las Vegas area.

Comments filed by Dairy Farmers of America, Southern Foods Group, and a western Colorado dairy farmer advocated consolidating the Western Colorado order area with the consolidated Central area instead of the Western area. DFA's comment stated that the Western Colorado milkshed is more similar to the Central area than to the Western area. The comments filed by Southern Foods Group and the dairy farmer expressed concern about an expected reduction in the blend price paid to producers supplying the Western Colorado area.

October 1997 data show an increased relationship between Western Colorado and Eastern Colorado, and reduced milk movements between Western Colorado and Great Basin. On the basis of the change in the relationships between Western Colorado and its two nearest neighbor order areas, the Western Colorado area should become part of the consolidated Central area instead of the Western area.

Five Farm Bureau organizations (Michigan, Utah, Iowa, Ohio and American), a Pennsylvania producer and Dairy Farmers of America filed eight comments opposing the consolidation of the Southwestern Idaho-Eastern Oregon order area with the Great Basin marketing area. One DFA comment suggested combining Utah with the Arizona-Las Vegas area instead of with Idaho. A primary basis for opposition to the consolidation is the disparity in the two regions' utilization of Class I fluid milk: The Southwestern Idaho-Eastern Oregon order has a very low percentage of Class I use, which varies from less than 10 percent to over 20 percent, while the Great Basin order's Class I use percentage is higher at about 35 percent. Commenters fear that the consolidation of these orders would result in lower returns to producers who currently are pooled under the Great Basin order. Most of the comments suggest that the Southwestern Idaho-Eastern Oregon marketing area should remain under a separate order.

A major source of milk production for both the Southwestern Idaho-Eastern Oregon and Great Basin orders is a 5-county area located within the Federal order 135 marketing area, supplying one-quarter of the milk pooled on the Great Basin order in October 1997. The Southwestern Idaho-Eastern Oregon area should be consolidated with some other order area because of the small number of handlers pooled under the order, and this close relationship with Great Basin makes that consolidation the only viable possibility.

**Pacific Northwest**

The Pacific Northwest marketing area is comprised of the current Pacific Northwest (Order 124) marketing area and one currently-unregulated county in southwest Oregon. There are 75 counties in this marketing area. This area remains unchanged from the proposed rule.

*Geography*

The Pacific Northwest market is described geographically as follows: All counties (39) in Washington, 30 counties in Oregon (29 currently are part of Order 124 and one, Curry County, is unregulated) and six counties in northwestern Idaho. The market extends about 490 miles north-to-south from Washington's northern border with the Canadian province of British Columbia to Oregon's southern border with California and Nevada. East-to-west, the market ranges from about 450 miles in the northern half of the market (covering territory from Washington's western boundary with the Pacific Ocean to the eastern border of Idaho with Montana) to about 250 miles in the southern half of the market (covering approximately two-thirds of Oregon from the state's western border with the Pacific Ocean to central Oregon).

The Pacific Northwest marketing area is contiguous with the consolidated Western Federal order marketing area in eastern Oregon. The remainder of the marketing area is surrounded by currently non-Federally regulated areas (California and northwestern Nevada to the south and Montana, Idaho, and one northeastern Oregon county to the east), political boundaries (Canada to the north), and the Pacific Ocean to the west.

Along the Oregon and Washington coasts lies the Coast Range. The Cascade Range is located further inland in both states. Both ranges are north-south in direction, and the Cascade Range effectively divides both states into two distinct climates: a year-round mild, humid climate with abundant precipitation predominates in the western part of the states, and a dry climate with little precipitation but greater temperature extremes prevails east of the Cascade Range. The mild climate of the western portion results in longer growing seasons. The Columbia River flows south through eastern Washington, turns west, and becomes the western two-thirds of the border between Oregon and Washington. The portion of Idaho included in the Pacific Northwest marketing area is within the Rocky Mountains. This area has a generally continental climate with the higher elevations having long and severe winters.

Much of the area is conducive to the production of milk and many other agricultural commodities. Although dairy products ranked 2nd among receipts of agricultural commodities in the State of Washington in 1996, and 4th in Oregon, they accounted for only 13.8 percent and 7.9 percent, respectively, of such receipts. Apples (in Washington) and greenhouse/nursery, wheat, and cattle and calves (in Oregon) ranked ahead of dairy, accounting for 19.8 percent and 33.8 percent, respectively, of agricultural commodity receipts.

*Population*

According to July 1, 1997, population estimates, the total population in the marketing area is 9 million. Seventy-seven percent of the marketing area population is located in Metropolitan Statistical Areas (MSAs). The two

largest MSAs are located on the western side of the Cascade Range. The Seattle-Tacoma-Bremerton (Seattle) area, with a population of 3.4 million (37.6% of the marketing area population), is in northwestern Washington. Over seventy percent of the population of the State of Washington is located west of the Cascade Mountains, in the western third of the State. Another 14.5% of the State's population is contained in 3 MSA's east of the Cascades.

The Portland-Salem (Portland) area in northwestern Oregon is located on the Oregon-Washington border, with Portland just south of the Columbia River. The population of this MSA is 2.1 million, or 23.6% of the marketing area population. Ninety percent of the population of Oregon is concentrated in the western one-third of the State, or in the western half of the Oregon portion of the marketing area.

*Fluid Per Capita Consumption*

Based on the population figure of 9 million and an estimated per capita fluid milk consumption rate of 22 pounds of fluid milk per month, total fluid milk consumption in the Pacific Northwest marketing area is estimated at 198 million pounds per month. For October 1997, plants that would be fully regulated distributing plants under the Pacific Northwest order had route disposition within the market of 170 million pounds. In addition, the 18 producer-handlers operating during this month had a combined route disposition of 18 million pounds. Additionally, slightly over 1 million pounds of route disposition (less than one percent of total route disposition in the marketing area) came from handlers outside the market. Because the handlers associated with this market are able to fulfill the market's Class I or fluid needs, and because of the somewhat geographic isolation of the market, maintaining the current Pacific Northwest order as a separate market is appropriate.

*Milk Production*

In October 1997, the 540 million pounds of milk pooled in the Pacific Northwest market were produced by 1,211 producers located in 57 counties in California, Idaho, Oregon, and Washington. Five counties produced 57 percent of the milk pooled. Four of these counties are in Washington State. They are Whatcom, Skagit, and Snohomish counties, which are less than 100 miles north of Seattle; and Yakima County, which is located in central Washington about 100 miles southeast of Seattle on the eastern side of the Cascade Range. The fifth county is in Oregon. It is Tillamook County, which borders the Pacific Ocean, about 60 miles west of the Portland area on the western side of the Coast Range.

Less than two percent of the milk pooled in the Pacific Northwest was produced outside of the marketing area, in Idaho and California. The largest portion is from producers in two northern California counties who pooled nearly 6 million pounds of milk or 89.8 percent of the pooled milk produced outside the Pacific Northwest marketing 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 Pacific Northwest market, including 19 fully regulated distributing plants (all currently fully regulated), 2 partially regulated plants, 4 exempt plants (below 150,000 pounds in total route disposition), and 10 producer-handlers. It is known that 3 distributing plants (all producer-handlers) have gone out of business since October 1997.

There are 11 distributing plants within the Portland area, including 7 pool plants, 2 exempt plants and 2 producer-handlers. The Seattle/Tacoma MSAs have 4 pool plants, 1 partially regulated plant, and 4 producer-handlers. In addition to these two main population centers, the Spokane, Washington, MSA, located in the eastern area of the state near the Idaho border with a population of 405,000, has 2 pool plants.

Two smaller MSA's in western Oregon contain 2 pool plants, 1 producer-handler, and 1 plant exempt on the basis of size. Of the 5 distributing plants that would be operating in Oregon outside of MSAs, 3 would be fully regulated, 1 partially regulated, and 1 exempt of the basis of size. All but one, in central Oregon, are located in western Oregon.

One producer-handler is located in a northwest Washington MSA, and 1 pool plant, 2 producer-handlers and 1 partially regulated plant are located in the southeast quadrant of the State of Washington outside any MSA.

Since October 1997, three producer-handlers are known to have gone out of business, two in the State of Washington, and one in Oregon.

Distributing plants fully regulated under the Pacific Northwest order are located in MSAs where 71 percent of the market's population is concentrated.

*Utilization*

According to October 1997 pool statistics, the Class I utilization percentage for the Pacific Northwest market was 36 percent. Because this market is to remain separate, expected utilization changes due to the reform process result only from potential changes in plants' regulatory status; thus very little change in producer returns under the Pacific Northwest order is expected as a result of consolidation. For October 1997, Class I utilization for the Pacific Northwest market was 35.6 percent based on 192 million pounds of producer milk used in Class I out of 540 million total producer milk pounds. The weighted average use value for the Pacific Northwest market is estimated to be $13.33 per hundredweight.

*Other Plants*

Located within the Pacific Northwest marketing area in May 1997 were 27 supply or manufacturing plants; 12 in Oregon (5 in the Portland area), 15 in Washington (7 in the Seattle area) and none in Idaho. Two of the 27 plants (both in Oregon) were Order 124 pool supply plants, one of which manufactured primarily cheese, and the other nonfat dry milk. Of the 10 nonpool manufacturing plants located in Oregon, 8 manufactured primarily Class II products (including ice cream), 1 manufactured butter, and the other made cheese.

The 15 manufacturing/supply plants located in the State of Washington were all nonpool plants. Three manufactured primarily Class II products, 3 manufactured primarily butter, 2 manufactured primarily powder, and 7 manufactured primarily cheese.

*Cooperative Associations*

Five cooperative associations had members in the Pacific Northwest market in December 1997. Darigold Farms is the largest, and the only cooperative that had membership affiliated with another order (Order 135) in December 1997. Other cooperatives in this market are Farmers Cooperative Creamery, Tillamook County Creamery Association, Northwest Independent Milk Producers Association, and Portland Independent Milk Producers Association. These five cooperatives pooled 85 percent of the total producer milk pooled under the Pacific Northwest order in December 1997.

*Criteria for Consolidation*

The consolidated Pacific Northwest market adds one currently unregulated Oregon county to the Pacific Northwest milk order. The degree of association of

this market with other Federal order marketing areas is insufficient under any criteria to warrant consolidation with any other order areas.

*Discussion of Comments and Alternatives*

Prior to issuance of the proposed rule, alternatives to the leaving the Pacific Northwest area as a separate order area that were considered included the consolidation of the current Pacific Northwest, Southwestern Idaho-Eastern Oregon and Great Basin order areas. Because there is virtually no relationship with regard to either overlapping route dispositions or overlapping milk procurement between the Pacific Northwest and Southwestern Idaho-Eastern Oregon milk marketing areas, and none at all with Great Basin, these alternatives were not pursued.

Only two comments pertained specifically to the ''consolidated'' Pacific Northwest marketing area. Darigold Farms, Inc., commented that the Pacific Northwest marketing area should remain unchanged except for the addition of the one southwestern Oregon county proposed to be added. Darigold stated that the addition of this county would not cause the regulation of any plant. A comment filed by an individual from Utah stated that Idaho should be included in the Pacific Northwest area or be a separate order. As noted before, there is almost no relationship between the Pacific Northwest and Southwestern Idaho-Eastern Oregon marketing areas, and no basis for such a consolidation.

BILLING CODE 3410–02–P

LIST OF PLANTS AND REGULATORY STATUS

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| **Northeast** | | | | | |
| ARMSTRONG, DAVID F. (SUNSET DAIRY) | WHITESBORO | NY | NY–NJ | 1 | 1 |
| ARRUDA, GEORGIANNA (ESTATE OF) | TIVERTON | RI | New England | 4 | 4 |
| BANGMA, LEONARD & DONALD | UXBRIDGE | MA | New England | 4 | 4 |
| BECHTEL DAIRIES, INC | ROYERSFORD | PA | Mid Atlantic | 1 | OOB 4/98 |
| BOICE BROS. DAIRY (RICHARD P. BOICE) | KINGSTON | NY | NY–NJ | 1 | 1 |
| BRIGGS, ROBERT A | WEST MEDWAY | MA | New England | 4 | 4 |
| BROOKSIDE DAIRY | FITCHBURG | MA | New England | 4 | 4 |
| BYRNE DAIRY, INC | SYRACUSE | NY | NY–NJ | 1 | 1 |
| CAMPHILL VILLAGE | KIMBERTON | PA | Mid Atlantic | 4 | 4 |
| CHRISTIANSEN DAIRY CO., INC | NO. PROVIDENCE | RI | New England | 1 | 1 |
| CHROME DAIRY FARMS | OXFORD | PA | Mid Atlantic | 1 | 1 |
| CIENIEWICZ, JOSEPH | BERLIN | CT | New England | 4 | 4 |
| CLINTON MILK CO | NEWARK | NJ | NY–NJ | 1 | OOB 10/98 |
| CLOVER FARMS DAIRY COMPANY | READING | PA | NY–NJ | 1 | 1 |
| CLOVERLAND/GREEN SPRING DAIRY | BALTIMORE | MD | Mid Atlantic | 1 | 1 |
| CLOVERLAND/GREEN SPRING DAIRY | BALTIMORE | MD | Mid Atlantic | 1 | OOB 2/98 |
| COOPER'S HILLTOP DAIRY FARM | ROCHDALE | MA | New England | 4 | 4 |
| CORNELL UNIVERSITY | ITHACA | NY | | 6A | 6B |
| CRESCENT RIDGE DAIRY, INC | SHARON | MA | New England | 4 | 4 |
| CROWLEY FOODS, INC | ALBANY | NY | NY–NJ | 1 | 1 |
| CROWLEY FOODS, INC | BINGHAMTON | NY | NY–NJ | 1 | 1 |
| CROWLEY FOODS, INC | CONCORD | NH | New England | 1 | 1 |
| CUMBERLAND DAIRY, INC | BRIDGETON | NJ | Mid Atlantic | 2 | 2 |
| CUMBERLAND FARMS, INC | CANTON | MA | New England | 1 | OOB 8/98 |
| DAIRY MAID DAIRY, INC | FREDERICK | MD | Mid Atlantic | 1 | 1 |
| DUNAJSKI DAIRY, INC | PEABODY | MA | New England | 4 | 4 |
| DUTCH VALLEY FOOD CO., INC | SUNBURY | PA | Mid Atlantic | 1 | 1 |
| DUTCH WAY FARM MARKET | MYERSTOWN | PA | Mid Atlantic | 4 | 4 |
| EDWARDS, CHARLES & KURT & KEITH (MODEL DAIRY FARM). | GLOVERSVILLE | NY | NY–NJ | 4 | 4 |
| ELMHURST DAIRY, INC | JAMAICA | NY | NY–NJ | 1 | 1 |
| EMBASSY DAIRY, INC | WALDORF | MD | Mid Atlantic | 1 | OOB 3/98 |
| EMMONS WILLOW BROOK FARM, INC | PEMBERTON | NJ | Mid Atlantic | 4 | 4 |
| FAIRDALE FARMS, INC | BENNINGTON | VT | New England | 2 | 1 |
| FARMLAND DAIRIES, INC. &/OR FAIRDALE MILK COMPANY, INC. | WALLINGTON | NJ | NY–NJ | 1 | 1 |
| FISH FAMILY FARM, INC | BOLTON | CT | New England | 4 | 4 |
| FLINT, PETER | CHELSEA | VT | New England | 1 | 1 |
| FREDDY HILL FARM DAIRY | LANSDALE | PA | Mid Atlantic | 4 | 4 |
| FRIENDSHIP DAIRIES, INC | FRIENDSHIP | NY | NY–NJ | 1 | 2 |
| GARELICK FARMS, INC. WAS: CUMBERLAND FARMS, INC. | EAST GREENBUSH | NY | NY–NJ | 1 | 1 |
| GARELICK FARMS, INC. WAS: CUMBERLAND FARMS, INC. | FLORENCE | NJ | NY–NJ | 1 | 1 |
| GARELICK FARMS, INC | FRANKLIN | MA | New England | 1 | 1 |
| GIANT FOOD, INC | LANDOVER | MD | Mid Atlantic | 1 | 1 |
| GRANT'S DAIRY, INC | BANGOR | ME | New England | 2 | 2 |
| GRATERFORD STATE | GRATERFORD | PA | Mid Atlantic | 6A | 6B |
| GUERS DY., INC | POTTSVILLE | PA | Mid Atlantic | 2 | 2 |
| GUIDA-SEIBERT DAIRY CO | NEW BRITAIN | CT | New England | 1 | 1 |
| HALO FARM, INC | TRENTON | NJ | Mid Atlantic | 1 | 1 |
| HARRISBURG DAIRIES | HARRISBURG | PA | Mid Atlantic | 1 | 1 |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| HATCH, HOWARD | N. HAVERHILL | NH | New England | 1 | 1 |
| HATCHLAND DAIRY | N. HAVERHILL | NH | New England | 4 | 4 |
| HERITAGE'S DAIRY, INC | THOROFARE | NJ | Mid Atlantic | 1 | OOB 5/98 |
| HERMANY FARMS, INC | BRONX | NY | NY–NJ | 1 | 1 |
| HIGHLAWN FARM | LEE | MA | | 5 | 3B |
| HILL FARM OF VERMONT | PLAINFIELD | VT | | 5 | 3B |
| HILLCREST DAIRY, INC. (MICHAEL J. JANAS) | MORAVIA | NY | NY–NJ | 4 | 4 |
| HINE, FREDRICK DBA: FIELD VIEW DAIRY FARM. | ORANGE | CT | New England | 4 | 4 |
| HOGAN, FRANCIS J. & ANDREW J. & SEAN P.—HOGAN'S DAIRY. | HUDSON FALLS | NY | NY–NJ | 4 | OOB 5/97 |
| HOMESTEAD DAIRIES, INC | MASSENA | NY | | 5 | OOB 6/98 |
| HOOVER DAIRY | SANBORN | NY | | 5 | 5 |
| HY POINT DAIRY FARMS, INC | WILMINGTON | DE | Mid Atlantic | 1 | 1 |
| H.E.A., INC | CRANSTON | RI | New England | 1 | 1 |
| H.P. HOOD, INC | AGAWAM | MA | New England | 1 | 1 |
| H.P. HOOD, INC. WAS: BOOTH BROTHERS DAIRY, INC. | BARRE | VT | New England | 2 | 1 |
| H.P. HOOD, INC | BURLINGTON | VT | New England | 2 | OOB 10/97 |
| H.P. HOOD, INC | NEWINGTON | CT | New England | 2 | 2 |
| H.P. HOOD, INC | ONEIDA | NY | NY–NJ | 2 | 1 |
| H.P. HOOD, INC | PORTLAND | ME | New England | 1 | 1 |
| KEMPS FOODS, INC | LANCASTER | PA | Mid Atlantic | 1 | 1 |
| KOLB'S FARM STORE | SPRING CITY | PA | Mid Atlantic | 4 | 4 |
| KREIDER DAIRY FARMS, INC | MANHEIM | PA | NY–NJ | 2 | 4 |
| KRISCO FARMS, INC | CAMPBELL HALL | NY | NY–NJ | 4 | OOB 5/98 |
| LAPP VALLEY FARM | NEW HOLLAND | PA | Mid Atlantic | 4 | 4 |
| LEESBURG STATE PRISON FARM | LEESBURG | NJ | Mid Atlantic | 6A | 6B |
| LEONARD, STEWART J | NORWALK | CT | New England | 1 | 1 |
| LEWES DAIRY, INC | LEWES | DE | Mid Atlantic | 1 | 1 |
| LEWIS COUNTY DAIRY CORP | LOWVILLE | NY | NY–NJ | 1 | 1 |
| LONGACRE'S MODERN DAIRY, INC | BARTO | PA | NY–NJ | 1 | 1 |
| MANINO, ROSE (DARI-DELL) | FRANKFORT | NY | NY–NJ | 2 | 3B |
| MAPLE HILL FARMS, INC | BLOOMFIELD | CT | New England | 1 | OOB 9/97 |
| MAPLEHOFE DAIRY, INC | QUARRYVILLE | PA | Mid Atlantic | 4 | 4 |
| MARCUS DAIRY, INC | DANBURY | CT | NY–NJ | 1 | 1 |
| MCNAMARA, PATRICK | WEST LEBANON | NH | New England | 4 | 4 |
| MEADOW BROOK FARMS, INC | POTTSTOWN | PA | Mid Atlantic | 1 | 1 |
| MERCERS DAIRY, INC | BOONVILLE | NY | NY–NJ | 2 | 3B |
| BMERRYMEAD FARM | LANSDALE | PA | Mid Atlantic | 4 | 4 |
| MOHAWK DAIRY (Z & R CORP.) | AMSTERDAM | NY | NY–NJ | 1 | 1 |
| MONUMENT FARMS, INC | MIDDLEBURY | VT | | 5 | 1 |
| MOUNT WACHUSETT DAIRY, INC | W. BOYLSTON | MA | New England | 1 | OOB 12/98 |
| MOUNTAINSIDE FARMS, INC | ROXBURY | NY | NY–NJ | 1 | 1 |
| MUNROE, A B DAIRY, INC | EAST PROVIDENCE | RI | New England | 1 | 1 |
| NEW ENGLAND DAIRIES, INC | HARTFORD | CT | New England | 1 | 1 |
| NICASTRO FARMS, INC. DBA: RIVERSIDE FARMS. | FRANKFORT | NY | NY–NJ | 4 | 4 |
| NICHOLS, DAVID | CHESTERFIELD | MA | New England | 4 | 4 |
| NIP N TUCK FARMS | VINEYARD HAVEN | MA | | 5 | 4 |
| OAK TREE FARM DAIRY, INC | EAST NORTHPORT | NY | NY–NJ | 1 | 1 |
| OAKHURST DAIRY | PORTLAND | ME | New England | 2 | 2 |
| OREGON DAIRY FARM MKT | LITITZ | PA | Mid Atlantic | 4 | 4 |
| PARMALAT WELSH FARMS, INC. WAS: WELSH FARMS, INC. | LONG VALLEY | NJ | NY–NJ | 1 | 1 |
| PARMALAT WEST DAIRIES, INC | SPRING CITY | PA | Mid Atlantic | 2 | OOB 5/97 |
| PEACEFUL MEADOWS ICE CREAM, INC | WHITMAN | MA | New England | 4 | 4 |
| PEARSON, ROBERT L | WEST MILLBURY | MA | New England | 4 | 4 |
| PEDRO, JOSEPH | FALL RIVER | MA | New England | 4 | 4 |
| PENNVIEW FARMS | PERKASIE | PA | Mid Atlantic | 4 | 4 |
| PERRYDELL FARMS | YORK | PA | Mid Atlantic | 4 | 4 |
| PINE VIEW ACRES, INC | LANCASTER | PA | Mid Atlantic | 4 | 4 |
| PIONEER DAIRY, INC | SOUTHWICK | MA | New England | 1 | 1 |
| POTOMAC FARMS DAIRY, INC | CUMBERLAND | MD | Mid Atlantic | 2 | 2 |
| PULEO'S DAIRY | SALEM | MA | New England | 1 | 3B |
| QUALITY MILK, INC | WARE | MA | New England | 1 | 3B |
| QUEENSBORO FARM PRODUCTS,INC | CANASTOTA | NY | NY–NJ | 1 | 2 |
| READINGTON FARMS, INC | WHITEHOUSE | NJ | NY–NJ | 1 | 1 |
| READY FOODS, INC | PHILADELPHIA | PA | Mid Atlantic | 2 | 3B |
| RICHARDSON FARMS, INC | MIDDLETON | MA | New England | 4 | 4 |
| RICHARDSONS G. H. DAIRY | DRACUT | MA | New England | 3A | 3B |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| RICHFOOD DAIRY | RICHMOND | VA | Mid Atlantic | 1 | 1 |
| RIDGE VIEW FARMS | ELIZABETHTOWN | PA | Mid Atlantic | 4 | 4 |
| RITCHEY'S DAIRY | MARTINSBURG | PA | Mid Atlantic | 2 | 2 |
| RONNYBROOK FARM DAIRY, INC | ANCRAMDALE | NY | NY–NJ | 4 | 4 |
| ROSENBERGER'S DAIRY, INC | HATFIELD | PA | Mid Atlantic | 1 | 1 |
| RUDOLPH STEINER EDUCATION & FARMING ASSOC., INC. | GHENT | NY | NY–NJ | 4 | 4 |
| RUTTER BROS. DAIRY, INC | YORK | PA | Mid Atlantic | 1 | 1 |
| SALEM VALLEY FARMS, INC | SALEM | CT | New England | 4 | 4 |
| SARATOGA DAIRY, INC. (STEWART'S PROCESSING CORP.). | SARATOGA SPRINGS | NY | NY–NJ | 1 | 1 |
| SCHNEIDER/VALLEY FARMS, INC | WILLIAMSPORT | PA | NY–NJ | 2 | 2 |
| SEWARD DAIRY, INC | RUTLAND | VT | New England | 2 | OOB 8/98 |
| SHAW FARM DAIRY, INC | DRACUT | MA | New England | 4 | 4 |
| STEARNS, WILLARD J. & SONS, INC | STORRS | CT | New England | 4 | 4 |
| STOP & SHOP COMPANIES, INC | READVILLE | MA | New England | 1 | 1 |
| SULOMAN'S MILK | GILBERTSVILLE | PA | Mid Atlantic | 4 | 4 |
| SUNNYDALE FARMS, INC | BROOKLYN NY | | NY–NJ | 1 | 1 |
| SYNAKOWSKI WALTER J (VALLEY SIDE FARM) | REMSEN | NY | NY–NJ | 4 | 4 |
| TANNER BROS. DAIRY | WARMINSTER | PA | Mid Atlantic | 4 | 4 |
| THOMAS, ORIN & SONS, INC | RUTLAND | VT | New England | 2 | 1 |
| TRINITY FARM | ENFIELD | CT | New England | 4 | 4 |
| TURKEY HILL DAIRY, INC | CONESTOGA | PA | Mid Atlantic | 1 | 1 |
| TURNER'S DAIRY, INC | SALEM | NH | New England | 1 | 1 |
| TUSCAN DAIRY FARMS, INC | FRASER | NY | NY–NJ | 2 | 2 |
| TUSCAN DAIRY FARMS, INC | UNION | NJ | NY–NJ | 1 | 1 |
| TUSCAN/LEHIGH DAIRIES, LP WAS: LEHIGH VALLEY DAIRIES, INC. | LANSDALE | PA | Mid Atlantic | 1 | 1 |
| TUSCAN/LEHIGH DAIRIES, LP WAS: LEHIGH VALLEY DAIRIES, INC. | SCHUYLKILL HAVEN | PA | NY–NJ | 2 | 2 |
| UPSTATE MILK COOPERATIVES, INC | BUFFALO | NY | NY–NJ | 2 | 1 |
| UPSTATE MILK COOPERATIVES, INC | JAMESTOWN | NY | | 5 | 5 |
| UPSTATE MILK COOPERATIVES, INC | ROCHESTER | NY | NY–NJ | 2 | 2 |
| VALLEY OF VIRGINIA COOP. DBA SHENANDOAH'S PRIDE. | MT. CRAWFORD | VA | Mid Atlantic | 2 | 2 |
| VALLEY OF VIRGINIA COOP. DBA SHENANDOAH'S PRIDE. | SPRINGFIELD | VA | Mid Atlantic | 1 | 1 |
| VAN WIE, CHARLES F. (MEADOWBROOK FARMS DAIRY). | CLARKSVILLE | NY | NY–NJ | 4 | 4 |
| WALSH, WILLIAM | SIMSBURY | CT | New England | 4 | 4 |
| WAWA DAIRY FARMS | WAWA | PA | Mid Atlantic | 1 | 1 |
| WAY-HAR FARMS | BERNVILLE | PA | NY–NJ | 3A | 3B |
| WENDTS DAIRY DIV NIAGARA CO | NIAGARA FALLS | NY | | 5 | 5 |
| WENGERTS DAIRY, INC | LEBANON | PA | Mid Atlantic | 1 | 1 |
| WEST LYNN CREAMERY, INC | LYNN | MA | New England | 1 | 1 |
| WHITTIER CREAMERY COMPANY, INC | SHREWSBURY | MA | New England | 1 | 1 |
| WINSOR, S. B. DAIRY, INC | JOHNSTON | RI | New England | 1 | 3B |
| WRIGHT'S DAIRY FARM, INC | NORTH SMITHFIELD | RI | New England | 4 | 4 |
| **Appalachian** | | | | | |
| BROADACRE DAIRIES | POWELL | TN | | 5 | 1 |
| CAROLINA DAIRIES | KINSTON | NC | Carolina | 1 | OOB 5/98 |
| COBURG DAIRY, INC | N. CHARLESTON | SC | Carolina | 1 | 1 |
| DAIRY FRESH, LP | WINSTON-SALEM | NC | Carolina | 1 | 1 |
| DEAN MILK CO | LOUISVILLE | KY | Louis-Lex-Evans | 1 | 1 |
| FLAV-O-RICH, INC | BRISTOL | VA | Carolina | 2 | 1 |
| FLAV-O-RICH, INC | FLORENCE | SC | Carolina | 1 | 1 |
| FLAV-O-RICH, INC | LONDON | KY | Louis-Lex-Evans | 1 | 1 |
| FLAV-O-RICH, INC | WILKESBORO | NC | Carolina | 1 | 1 |
| GOLDEN GALLON, INC | CHATTANOOGA | TN | Southeast | 1 | 1 |
| HOOSIER DAIRY, INC. WAS: HOLLAND DAIRIES, INC. | HOLLAND | IN | Louis-Lex-Evans | 1 | 1 |
| HUNTER FARMS | CHARLOTTE | NC | Carolina | 1 | 1 |
| HUNTER FARMS | HIGHPOINT | NC | Carolina | 1 | 1 |
| IDEAL AMERICAN DAIRY | EVANSVILLE | IN | Louis-Lex-Evans | 1 | 1 |
| JACKSON DAIRY | DUNN | NC | Carolina | 1 | 3B |
| JERSEY RIDGE DAIRY, INC | KNOXVILLE | TN | | 5 | 3B |
| LAND-O-SUN DAIRIES, INC | KINGSPORT | TN | Carolina | 1 | 1 |
| LAND-O-SUN DAIRIES, INC | PORTSMOUTH | VA | Carolina | 2 | 2 |
| LAND-O-SUN DAIRIES, INC | SPARTANBURG | SC | Carolina | 1 | 1 |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| MAOLA MILK & ICE CREAM CO | NEW BERN | NC | Carolina | 1 | 1 |
| MAPLEVIEW FARMS | HILLSBORO | NC | Carolina | 1 | 3B |
| MARVA MAID DAIRY | NEWPORT NEWS | VA | Carolina | 2 | 2 |
| MAYFIELD DAIRY FARMS, INC | ATHENS | TN | Southeast | 1 | 1 |
| MILKCO, INC | ASHEVILLE | NC | Carolina | 1 | 1 |
| NORTH CAROLINA ST. UNIV. | RALEIGH | NC | Carolina | 6A | 6B |
| PEELER JERSEY FARMS, INC | GAFFNEY | SC | Carolina | 1 | OOB 10/98 |
| REGIS MILK CO | CHARLESTON | SC | Carolina | 1 | 1 |
| SOUTHERN BELLE DAIRY, INC | SOMERSET | KY | Southeast | 1 | 1 |
| SUPERBRAND DY. PRODS., INC | GREENVILLE | SC | Carolina | 1 | 1 |
| SUPERBRAND DAIRY, INC | HIGHPOINT | NC | Carolina | 1 | 1 |
| U C MILK CO | MADISONVILLE | KY | Louis-Lex-Evans | 1 | 1 |
| WESTOVER DAIRIES | LYNCHBURG | VA | Carolina | 1 | 1 |
| WINCHESTER FARMS DAIRY | WINCHESTER | KY | Louis-Lex-Evans | 1 | 1 |
| **Florida** | | | | | |
| BORDEN, INC. (TRI-STATE DAIRY) | MIAMI | FL | Southeast Florida | 1 | OOB 4/97 |
| FARM STORES, INC. (REW JB DAIRY PLANT ASSOCIATES dba FARM STORES). | MIAMI | FL | Southeast Florida | 1 | OOB 10/98 |
| GOLDEN FLEECE DAIRY | LECANTO | FL | Tampa Bay | 4 | 4 |
| GUSTAFSON'S DAIRY, INC | GREEN COVE | FL | Upper Florida | 1 | 1 |
| M&B DAIRY PRODUCTS, INC | TAMPA | FL | Tampa Bay | 1 | 3B |
| MCARTHUR DAIRY, INC | MIAMI | FL | Southeast Florida | 1 | 1 |
| PUBLIX SUPER MKTS., INC | DEERFIELD BEACH | FL | Southeast Florida | 1 | 1 |
| PUBLIX SUPER MKTS., INC | LAKELAND | FL | Tampa Bay | 1 | 1 |
| RYAN FOODS COMPANY, WAS: LONGLIFE DAIRY PRODUCTS, INC. | JACKSONVILLE | FL | Southeast | 2 | 2 |
| SUPERBRAND DAIRY PRODUCTS, INC | MIAMI | FL | Southeast Florida | 1 | 1 |
| SUPERBRAND DAIRY PRODUCTS, INC | PLANT CITY | FL | Tampa Bay | 1 | 1 |
| T.G. LEE FOODS, INC., WAS: LIFE STYLE/DIV TG LEE FOODS. | ORANGE CITY | FL | Upper Florida | 1 | 1 |
| T.G. LEE FOODS, INC | ORLANDO | FL | Tampa Bay | 1 | 1 |
| VELDA FARMS, INC | MIAMI | FL | Southeastern Florida | 1 | 1 |
| VELDA FARMS, INC | ST. PETERSBURG | FL | Tampa Bay | 1 | 1 |
| VELDA FARMS, INC | WINTER HAVEN | FL | Tampa Bay | 1 | 1 |
| WIGGINS DAIRY PRODUCTS, INC | PLANT CITY | FL | Tampa Bay | 1 | 1 |
| **Southeast** | | | | | |
| ALCORN STATE UNIVERSITY | LORMAN | MS | Southeast | 6A | 6B |
| ARKANSAS DEPT. OF CORREC | GRADY | AR | Southeast | 6A | 6B |
| AVENT'S DAIRY NC | OXFORD | MS | Southeast | 1 | 1 |
| BARBER PURE MILK CO | BIRMINGHAM | AL | Southeast | 1 | 1 |
| BARBER PURE MILK CO | MOBILE | AL | Southeast | 1 | 1 |
| BARBER PURE MILK CO | MONTGOMERY | AL | Southeast | 1 | 1 |
| BARBE'S DAIRY, INC | WESTWEGO | LA | Southeast | 1 | 1 |
| BORDEN, INC | BATON ROUGE | LA | Southeast | 1 | OOB 10/98 |
| BORDEN MILK PRODUCTS, LLC | LAFAYETTE | LA | Southeast | 1 | 1 |
| BORDEN MILK PRODUCTS, LLC | MONROE | LA | Southeast | 1 | 1 |
| BROWNS VELVET DAIRY PRODUCTS (SOUTHERN FOODS GROUP, LP). | NEW ORLEANS | LA | Southeast | 1 | 1 |
| CENTENNIAL FARMS DAIRY, INC | ATLANTA | GA | Southeast | 1 | 1 |
| COLLEGE OF THE OZARKS | POINT LOOKOUT | MO | Southwest Plains | 1 | 6B |
| COUNTRY DELITE FARMS, INC | NASHVILLE | TN | Southeast | 1 | 1 |
| DAIRY FRESH CORP | BAKER | LA | Southeast | 1 | 1 |
| DAIRY FRESH CORP | COWARTS | AL | Southeast | 1 | 1 |
| DAIRY FRESH CORP | HATTIESBURG | MS | Southeast | 1 | 1 |
| DAIRY FRESH CORP | PRICHARD | AL | Southeast | 1 | 1 |
| DASI PRODUCTS, INC | DECATUR | AL | Southeast | 2 | 2 |
| ETOWAH MAID DAIRIES, INC | CANTON | GA | Southeast | 4 | 4 |
| FLAV-O-RICH, INC | CANTON | MS | Southeast | 1 | 1 |
| FOREMOST DAIRY, INC | SHREVEPORT | LA | Southeast | 1 | 1 |
| GEORGIA STATE PRISON | REIDSVILLE | GA | Southeast | 6A | 6B |
| GOLD STAR DAIRY | LITTLE ROCK | AR | Southeast | 1 | 1 |
| HERITAGE FARMS DAIRY | MURFREESBORO | TN | Southeast | 1 | 1 |
| HILAND DAIRY CO | FAYETTEVILLE | AR | Southwest Plains | 1 | 1 |
| HILAND DAIRY CO | FORT SMITH | AR | Southwest Plains | 1 | 1 |
| HILAND DAIRY CO | SPRINGFIELD | MO | Southwest Plains | 1 | 1 |
| HUMPHREY DAIRY | HOT SPRINGS | AR | Southeast | 3A | 3B |
| KINNETT DAIRIES, INC | COLUMBUS | GA | Southeast | 1 | 1 |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| KLEINPETER DAIRY, INC | BATON ROUGE | LA | Southeast | 1 | 1 |
| LOUISIANA STATE PENITENTIARY | ANGOLA | LA | Southeast | | OOB 12/95 |
| LOUISIANA TECH | RUSTON | LA | Southeast | 6A | 6B |
| LUVEL DAIRY PRODUCTS, INC | KOSCIUSKO | MS | Southeast | 1 | 1 |
| MAYFIELD DAIRY | BRASELTON | GA | Southeast | 1 | 1 |
| MEADOW GOLD DAIRIES, INC. (SOUTHERN FOODS GROUP, LP). | HUNTSVILLE | AL | Southeast | 1 | 1 |
| MID-AMERICA DAIRYMEN, INC | LEBANON | MO | Southwest Plains | 1 | OOB 8/98 |
| MISSISSIPPI STATE UNIVERSITY | MISS. STATE | MS | Southeast | 6A | 6B |
| NEW ATLANTA DAIRIES, INC | ATLANTA | GA | Southeast | 1 | 1 |
| PEELER JERSEY FARMS, INC | ATHENS | GA | Southeast | 1 | 1 |
| PUBLIX SUPERMARKETS, INC | LAWRENCEVILLE | GA | Southeast | 1 | 1 |
| PURITY DAIRIES, INC | NASHVILLE | TN | Southeast | 1 | 1 |
| RYAN FOODS COMPANY | MURRAY | KY | Southeast | 2 | 1 |
| SAVANNAH MANUFACTURING COMPANY—A HERSHEY FOODS COMPANY. | SAVANNAH | GA | Southeast | 2 | 2 |
| SOUTHERN UNIVERSITY | BATON ROUGE | LA | Southeast | 6A | 6B |
| SUPERBRAND DY. PRODS., INC | HAMMOND | LA | Southeast | 1 | 1 |
| SUPERBRAND DY. PRODUCTS, INC | MONTGOMERY | AL | Southeast | 1 | 1 |
| TURNER HOLDINGS, LLC | COVINGTON | TN | Southeast | 1 | 2 |
| TURNER HOLDINGS, LLC | FULTON | KY | Southeast | 1 | 1 |
| TURNER HOLDINGS, LLC WAS: COLEMAN DAIRY, INC. | LITTLE ROCK | AR | Southeast | 1 | 1 |
| TURNER HOLDINGS, LLC WAS: FOREST HILL DAIRY. | MEMPHIS | TN | Southeast | 1 | 1 |
| **Mideast** | | | | | |
| ARPS DAIRY, INC | DEFIANCE | OH | Ohio Valley | 1 | 1 |
| BAREMAN DAIRY, INC | HOLLAND | MI | Southern Michigan | 1 | 1 |
| BARKER'S FARM DAIRY, INC | PECKS MILL | WV | Ohio Valley | 4 | 4 |
| BROUGHTON FOODS CO | MARIETTA | OH | Ohio Valley | 1 | 1 |
| BRUNTON DAIRY | ALIQUIPPA | PA | E Ohio-W Penn | 4 | 4 |
| BURGER DAIRY CO | NEW PARIS | IN | Indiana | 1 | 1 |
| BURGER, C.F., CREAMERY, INC | DETROIT | MI | Southern Michigan | 2 | 2 |
| CALDER BROTHERS DAIRY | LINCOLN PARK | MI | Southern Michigan | 1 | 1 |
| COLTERYAHN DAIRY, INC. | PITTSBURGH | PA | E Ohio-W Penn | 1 | 1 |
| CON-SUN FOOD INDUSTRIES, INC | ELYRIA | OH | E Ohio-W Penn | 1 | 1 |
| COOK'S FARM DAIRY, INC | ORTONVILLE | MI | Southern Michigan | 4 | 4 |
| COUNTRY DAIRY | NEW ERA | MI | Southern Michigan | 4 | 4 |
| COUNTY FRESH, INC | GRAND RAPIDS | MI | Southern Michigan | 1 | 1 |
| CROOKED CREEK FARM DAIRY | ROMEO | MI | Southern Michigan | 4 | 4 |
| DEAN DAIRY PRODUCTS CO | SHARPSVILLE | PA | E Ohio-W Penn | 1 | 1 |
| DEAN FOODS COMPANY | ROCHESTER | IN | Indiana | 1 | 1 |
| DIXIE DAIRY CO | GARY | IN | Indiana | 1 | OOB 4/98 |
| EASTSIDE JERSEY DAIRY, INC | ANDERSON | IN | Indiana | 1 | 1 |
| ELMVIEW DAIRY | COLUMBUS | PA | E Ohio-W Penn | 4 | OOB 1/97 |
| EMBEST, INC | LIVONIA | MI | Southern Michigan | 1 | 1 |
| FIKE, R BRUCE & SONS DAIRY | UNIONTOWN | PA | E Ohio-W Penn | 1 | 1 |
| FISHER'S DAIRY, R.V. FISHER | PORTERSVILLE | PA | E Ohio-W Penn | 4 | 4 |
| FLEMINGS DAIRY | UTICA | OH | Ohio Valley | 1 | 1 |
| GALLIKER DAIRY CO | JOHNSTOWN | PA | E Ohio-W Penn | 2 | 2 |
| GLEN EDEN FARM-DIANNE TEETS | ROCHESTER | PA | E Ohio-W Penn | 4 | OOB 11/98 |
| GOSHEN DAIRY COMPANY | NEW PHILADELPHIA | OH | E Ohio-W Penn | 1 | 1 |
| GREEN VALE FARM | COOPERSVILLE | MI | Southern Michigan | 4 | 4 |
| GREEN VALLEY DAIRY | GEORGETOWN | PA | E Ohio-W Penn | 1 | 3B |
| GUERNSEY FARMS DAIRY | NORTHVILLE | MI | Southern Michigan | 1 | 1 |
| HARTZLER FAMILY DAIRY | WOOSTER | OH | E Ohio-W Penn | 1 | 3B |
| HILLSIDE DAIRY CO | CLEVELAND HGHTS | OH | E Ohio-W Penn | 1 | 1 |
| HUTTER FARM DAIRY | MT. PLEASANT | PA | E Ohio-W Penn. | 4 | 4 |
| INVERNESS DAIRY, INC | CHEBOYGAN | MI | Michigan U P | 1 | 1 |
| JACKSON FARMS | NEW SALEM | PA | E Ohio-W Penn | 4 | 4 |
| JILBERT DAIRY, INC | MARQUETTE | MI | Michigan U P | 1 | 1 |
| JOHNSON'S DAIRY, INC | ASHLAND | KY | Ohio Valley | 1 | OOB 5/97 |
| KERBER'S DAIRY | N. HUNTINGDON | PA | E Ohio-W Penn | 1 | 3B |
| KROGER COMPANY, THE | INDIANAPOLIS | IN | Indiana | 1 | 1 |
| LANSING DAIRY, INC (MELODY FARMS, INC.) | LANSING | MI | Southern Michigan | 1 | 1 |
| LIBERTY DAIRY CO | EVART | MI | Southern Michigan | 1 | 1 |
| LONDON'S FARM DAIRY, INC | PORT HURON | MI | Southern Michigan | 1 | 1 |
| MAPLEHURST FARMS, INC | INDIANAPOLIS | IN | Indiana | 1 | 1 |
| MARBURGER FARM DAIRY, INC | EVANS CITY | PA | E Ohio-W Penn | 1 | 1 |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| MCDONALD DAIRY COMPANY | FLINT | MI | Southern Michigan | 1 | 1 |
| MCMAHONS DAIRY, INC | ALTOONA | PA | | 5 | OOB |
| MEADOW BROOK DAIRY | ERIE | PA | E Ohio-W Penn | 1 | 1 |
| MEYER H & SONS DAIRY | CINCINNATI | OH | Ohio Valley | 1 | 1 |
| MICHIGAN DAIRY | LIVONIA | MI | Southern Michigan | 1 | 1 |
| ALBERT MIHALY & SON DAIRY | LOWELLVILLE | OH | E Ohio-W Penn | 4 | 4 |
| OBERLIN FARMS DAIRY, INC | CLEVELAND | OH | E Ohio-W Penn | 1 | 1 |
| OSBORN DAIRY | SAULT STE MARIE | MI | Michigan U P | 4 | 4 |
| PLEASANT VIEW DAIRY CORP | HIGHLAND | IN | Indiana | 1 | 1 |
| PRAIRIE FARMS DAIRY, INC | FT. WAYNE | IN | Indiana | 1 | 1 |
| PRAIRIE FARMS DAIRY, INC WAS: ROELOF DAIRY. | GALESBURG | MI | Southern Michigan | 1 | 1 |
| QUALITY CREAMERY, INC | COMSTOCK PARK | MI | Southern Michigan | 1 | OOB 7/98 |
| QUALITY DAIRY CO B.T.U | LANSING | MI | Southern Michigan | 1 | 1 |
| REITER DAIRY CO | SPRINGFIELD | OH | Ohio Valley | 1 | 1 |
| REITER DAIRY, INC | AKRON | OH | E Ohio-W Penn | 1 | 1 |
| SANI DAIRY | JOHNSTOWN | PA | E Ohio-W Penn | 2 | OOB 1/99 |
| SCHENKEL'S ALL-STAR DAIRY, INC | HUNTINGTON | IN | Indiana | 1 | 1 |
| SCHIEVER FARM DAIRY | HARMONY | PA | E Ohio-W Penn | 1 | 3B |
| SCHNEIDERS DAIRY, INC | PITTSBURGH | PA | E Ohio-W Penn | 1 | 1 |
| SMITH DAIRY PRODUCTS CO | ORRVILLE | OH | Ohio Valley | 1 | 1 |
| SMITH DAIRY PRODUCTS CO | RICHMOND | IN | Ohio Valley | 1 | 1 |
| STERLING MILK CO | WAUSEON | OH | Ohio Valley | 1 | 1 |
| SUPERIOR DAIRIES, INC | SAGINAW | MI | Southern Michigan | 1 | 1 |
| SUPERIOR DAIRY, INC | CANTON | OH | E Ohio-W Penn | 1 | 1 |
| TAMARACK FARMS | NEWARK | OH | Ohio Valley | 1 | 1 |
| TAYLOR MILK CO., INC | AMBRIDGE | PA | E Ohio-W Penn | 2 | OOB 11/98 |
| THE SPRINGHOUSE | EIGHTY FOUR | PA | E Ohio-W Penn | 4 | 4 |
| TOFT DAIRY INC | SANDUSKY | OH | Ohio Valley | 2 | 2 |
| TOLEDO MILK PROCESSING, INC. (COUNTRY FRESH OF OHIO). | MAUMEE | OH | Ohio Valley | 1 | 1 |
| TRAUTH, LOUIS DAIRY | NEWPORT | KY | Ohio Valley | 1 | 1 |
| TURNER DAIRY FARMS, INC | PITTSBURGH | PA | E Ohio-W Penn | 1 | 1 |
| UNITED DAIRY FARMERS | CINCINNATI | OH | Ohio Valley | 1 | 1 |
| UNITED DAIRY, INC | CHARLESTON | WV | Ohio Valley | 1 | 1 |
| UNITED DAIRY, INC | MARTINS FERRY | OH | E Ohio-W Penn | 1 | 1 |
| VALLEY RICH DAIRY | ROANOKE | VA | Ohio Valley | 2 | 2 |
| WHITE KNIGHT PACKAGING CORP. (PARMALAT WHITE KNIGHT PKG. CORP.). | WYOMING | MI | Southern Michigan | 1 | 1 |
| YOUNG'S JERSEY DAIRY, INC | YELLOW SPRINGS | OH | Ohio Valley | 4 | 4 |
| **Upper Midwest** | | | | | |
| AYSTA DAIRY, INC | VIRGINIA | MN | Upper Midwest | 1 | 1 |
| CASS-CLAY CREAMERY, INC | FARGO | ND | Upper Midwest | 1 | 1 |
| CASS-CLAY CREAMERY, INC | GRAND FORKS | ND | Upper Midwest | 1 | 1 |
| CASS-CLAY CREAMERY, INC | MANDAN | ND | Upper Midwest | 2 | 2 |
| CENTRAL MINNESOTA | SAUK CENTRE | MN | Upper Midwest | 1 | 1 |
| COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.). | BISMARCK | ND | Upper Midwest | 2 | 2 |
| COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.). | THIEF RIVER FALLS | MN | Upper Midwest | 1 | 1 |
| COUNTRY LAKE FOODS, INC. (LAND O'LAKES, INC.). | WOODBURY | MN | Upper Midwest | 1 | 1 |
| DEAN FOODS CO | HARVARD | IL | Chicago Regional | 1 | 1 |
| DEAN FOODS CO | HUNTLEY | IL | Chicago Regional | 1 | 1 |
| FOREMOST FARMS USA | DEPERE | WI | Chicago Regional | 1 | 1 |
| FOREMOST FARMS USA | WAUKESHA | WI | Chicago Regional | 1 | 1 |
| FOREMOST FARMS USA | WAUSAU | WI | Chicago Regional | 1 | 1 |
| FRANKLIN FOODS | DULUTH | MN | Upper Midwest | 1 | 1 |
| HANSENS DAIRY, INC | GREEN BAY | WI | Chicago Regional | 2 | OOB 1/99 |
| HASTINGS COOPERATIVE | HASTINGS | MN | Upper Midwest | 1 | 1 |
| KOHLER MIX SPECIALTIES, INC | WHITE BEAR LAKE | MN | Upper Midwest | 2 | 2 |
| KWIK TRIP DAIRY | LA CROSSE | WI | Chicago Regional | 1 | 1 |
| LAMERS DAIRY, INC | KIMBERLY | WI | Chicago Regional | 2 | 1 |
| LIFEWAY FOODS, INC | SKOKIE | IL | Chicago Regional | 2 | 1 |
| MARIGOLD FOODS, INC | CEDARBURG | WI | Chicago Regional | 1 | 1 |
| MARIGOLD FOODS, INC | MINNEAPOLIS | MN | Upper Midwest | 1 | 1 |
| MARIGOLD FOODS, INC | ROCHESTER | MN | Upper Midwest | 1 | 1 |
| MEYER BROTHERS DAIRY | WAYZATA | MN | Upper Midwest | 1 | 1 |
| MOM'S DAIRY | GIBBON | MN | Upper Midwest | [2] | 3B |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| MULLER-PINEHURST, INC | ROCKFORD | IL | Chicago Regional | 1 | 1 |
| NORTH BRANCH DAIRY, INC | NORTH BRANCH | MN | Upper Midwest | 1 | OOB 7/98 |
| OAK GROVE DAIRY | NORWOOD | MN | Upper Midwest | 1 | 1 |
| OBERWEIS DAIRY, INC | AURORA | IL | Chicago Regional | 1 | 1 |
| POLLARD DAIRY, INC | NORWAY | MI | Michigan U P | 1 | 1 |
| SCHROEDER MILK CO., INC | ST PAUL | MN | Upper Midwest | 1 | 1 |
| STAR SPECIALTY FOODS, INC. (MORNING-STAR FOODS, INC.). | MADISON | WI | Chicago Regional | 1 | 2 |
| SWISS VALLEY FARMS CO | CHICAGO | IL | Chicago Regional | 1 | 1 |
| TETZNER DAIRY | WASHBURN | WI | Upper Midwest | 4 | 4 |
| UNITED WORLD IMPORTS | CHICAGO | IL | Chicago Regional | 2 | 3B |
| VERIFINE DAIRY PRODUCTS CO | SHEBOYGAN | WI | Chicago Regional | 1 | 1 |
| WEBERS, INC | MARSHFIELD | WI | | 5 | 3B |
| **Central** | | | | | |
| ALBERS DAIRY | BARTELSO | IL | S Ill-E Missouri | [2] | 4 |
| ANDERSON-ERICKSON DAIRY CO | DES MOINES | IA | Iowa | 1 | 1 |
| W.H. BRAUM, INC | TUTTLE | OK | Southwest Plains | 1 | 1 |
| CENTRAL DAIRY & ICE CREAM | JEFFERSON CITY | MO | | 5 | 5 |
| CHESTER DAIRY CO | CHESTER | IL | S Ill-E Missouri | 1 | 1 |
| DAIRY GOLD FOODS CO | CHEYENNE | WY | Eastern Colorado | 1 | 1 |
| DEPT. OF CORRECTIONS | CANON CITY | CO | Eastern Colorado | 4 | 6B |
| DILLON DAIRY CO | DENVER | CO | Eastern Colorado | 1 | 1 |
| ELDON MOSS | IOWA CITY | IA | Iowa | 4 | 4 |
| FARM FRESH DAIRY, INC | CHANDLER | OK | Southwest Plains | 1 | 1 |
| GALESBURG CORR. CENTER | GALESBURG | IL | Central Illinois | 6A | 6B |
| GILLETTE DAIRY OF BLACK HILLS | RAPID CITY | SD | | 2 | 2 |
| GRAFF DAIRY, LLC | GRAND JUNCTION | CO | Western Colorado | 1 | 3B |
| GRAVES DAIRY | BELLVUE | CO | Eastern Colorado | 4 | 4 |
| HILAND DAIRY CO | NORMAN | OK | Southwest Plains | 1 | 1 |
| HILAND DAIRY CO | WICHITA | KS | Southwest Plains | 1 | 1 |
| JACKSON ICE CREAM CO | HUTCHINSON | KS | Southwest Plains | 1 | 1 |
| KANSAS STATE UNIV | MANHATTAN | KS | Greater Kansas City | 6A | 6B |
| KARL'S FARM DAIRY, INC | NORTH GLENN | CO | Eastern Colorado | 4 | 4 |
| LAESCH DAIRY CO | BLOOMINGTON | IL | S Ill-E Missouri | 1 | OOB 6/98 |
| LAND O'LAKES, INC. FLUID DAIRY DIVISION | SIOUX FALLS | SD | E South Dakota | 1 | 1 |
| LAND–O–SUN DAIRIES, INC | O'FALLON | IL | S Ill-E Missouri | 1 | 1 |
| LENZ DAIRY | PRAIRIE HOME | MO | Greater Kansas City | 4 | 4 |
| LONGMONT DAIRY FARM | LONGMONT | CO | Eastern Colorado | 4 | 4 |
| LOWELL–PAUL DAIRY, INC | GREELEY | CO | Eastern Colorado | 4 | 4 |
| MARTIN DAIRY, INC | HUMANSVILLE | MO | S Ill-E Missouri | [2] | 4 |
| MEADOW GOLD DAIRIES, INC | DELTA | CO | Western Colorado | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | ENGLEWOOD | CO | Eastern Colorado | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | GREELEY | CO | Eastern Colorado | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | LINCOLN | NE | Nebraska-W Iowa | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | TULSA | OK | Southwest Plains | 1 | 1 |
| MID–STATES DAIRY COMPANY | HAZELWOOD | MO | S Ill-E Missouri | 1 | 1 |
| PATKE FARM DAIRY | WASHINGTON | MO | S Ill-E Missouri | 1 | 3B |
| PEVELY DAIRY CO | ST LOUIS | MO | S Ill-E Missouri | 1 | 1 |
| PRAIRIE FARM DAIRIES, INC | CARLINVILLE | IL | S Ill-E Missouri | 1 | 1 |
| PRAIRIE FARMS DAIRY, INC | GRANITE CITY | IL | S Ill-E Missouri | 1 | 1 |
| PRAIRIE FARMS DAIRY, INC | OLNEY | IL | S Ill-E Missouri | 1 | 1 |
| PRAIRIE FARMS DAIRY, INC | PEORIA | IL | Central Illinois | 1 | 1 |
| PRAIRIE FARMS DAIRY, INC | QUINCY | IL | S Ill-E Missouri | 1 | 1 |
| RADIANCE DAIRY | FAIRFIELD | IA | Iowa | 4 | 4 |
| ROBERTS DAIRY CO | DES MOINES | IA | Iowa | 1 | 1 |
| ROBERTS DAIRY CO | IOWA CITY | IA | Iowa | 1 | 1 |
| ROBERTS DAIRY CO | KANSAS CITY | MO | Greater Kansas City | 1 | 1 |
| ROBERTS DAIRY CO | OMAHA | NE | Nebraska-W Iowa | 1 | 1 |
| ROBINSON DAIRY, INC | DENVER | CO | Eastern Colorado | 1 | 1 |
| ROYAL CREST DAIRY, INC | DENVER | CO | Eastern Colorado | 1 | 1 |
| SAFEWAY STORES, INC | DENVER | CO | Eastern Colorado | 1 | 1 |
| SCHRANT ROADSIDE DAIRY (ROADSIDE DAIRY). | WINSIDE | NE | Nebraska-W Iowa | 4 | 4 |
| SHOENBERG FARMS, INC. DBA FARM FRESH, INC. | ARVADA | CO | Eastern Colorado | 1 | 1 |
| SINTON DAIRY FOODS CO., LLC | COLORADO SPRINGS | CO | Eastern Colorado | 1 | 1 |
| SOUTH DAKOTA STATE UNIV | BROOKINGS | SD | E South Dakota | 6A | 6B |
| STAR DAIRY, INC | MULHALL | OK | Southwest Plains | ([2]) | 4 |
| SWAN BROS. DAIRY, INC | CLAREMORE | OK | Southwest Plains | 4 | 4 |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| SWISS VALLEY FARMS CO | CEDAR RAPIDS | IA | Chicago Regional | 1 | 3B |
| SWISS VALLEY FARMS CO | DUBUQUE | IA | Chicago Regional | 1 | 1 |
| WELLS DAIRY, INC | LE MARS | IA | Nebraska-W Iowa | 1 | 1 |
| WELLS DAIRY, INC | OMAHA | NE | Nebraska-W Iowa | 1 | 1 |
| WESTERN DAIRYMEN COOP, INC | RIVERTON | WY | Eastern Colorado | 2 | OOB 11/97 |
| WILD'S BROTHER'S DAIRY | EL RENO | OK | Southwest Plains | 4 | 4 |
| **Southwest** | | | | | |
| BELL DAIRY PRODUCTS, INC | LUBBOCK | TX | New Mex-W Texas | 1 | 1 |
| CREAMLAND DAIRIES | ALBUQUERQUE | NM | New Mex-W Texas | 1 | 1 |
| DAVID'S SUPERMARKETS, INC | GRANDVIEW | TX | Texas | 1 | 1 |
| FARMERS DAIRIES | EL PASO | TX | New Mex-W Texas | 1 | 1 |
| HOBBS DRIVE IN DAIRY | HOBBS | NM | New Mex-W Texas | 4 | OOB 8/98 |
| HYGEIA DAIRY | CORPUS CHRISTI | TX | Texas | 1 | 1 |
| H. E. BUTTS GROCERY CO | HOUSTON | TX | Texas | 1 | 1 |
| H. E. BUTTS GROCERY CO | SAN ANTONIO | TX | Texas | 1 | 1 |
| LAND O' PINES | LUFKIN | TX | Texas | 1 | OOB 3/97 |
| LANE'S DAIRY | EL PASO | TX | New Mex-W Texas | 4 | 4 |
| LILLY DAIRY PRODUCTS, INC | BYRAN | TX | Texas | 1 | 1 |
| LOS LUNAS DAIRY | ALBUQUERQUE | NM | New Mex-W Texas | 4 | 4 |
| MICKEY'S DRIVE IN DAIRY | ALBUQUERQUE | NM | New Mex-W Texas | 4 | 4 |
| MIDWEST MIX CO | SULPHUR SPRINGS | TX | Texas | 2 | 2 |
| MILK PRODUCTS, LLC WAS: BORDEN, INC | ALBUQUERQUE | NM | New Mex-W Texas | 1 | OOB 6/98 |
| MILK PRODUCTS, LLC WAS: BORDEN, INC | AUSTIN | TX | Texas | 1 | 1 |
| MILK PRODUCTS, LLC WAS: BORDEN, INC | CONROE | TX | Texas | 1 | 1 |
| MILK PRODUCTS, LLC WAS: BORDEN, INC | DALLAS | TX | Texas | 1 | 1 |
| MILK PRODUCTS, LLC WAS: BORDEN, INC | EL PASO | TX | New Mex-W Texas | 1 | OOB 7/87 |
| MORNINGSTAR SPECIALTY | SULPHUR SPRINGS | TX | Texas | 2 | 2 |
| MOUNTAIN GOLD DAIRY | CARRIZOZO | NM | New Mex-W Texas | 3A | 3B |
| NATURE'S DAIRY, INC | ROSWELL | NM | New Mex-W Texas | 4 | 4 |
| OAK FARMS DAIRIES | DALLAS | TX | Texas | 1 | 1 |
| OAK FARMS DAIRIES | HOUSTON | TX | Texas | 1 | 1 |
| OAK FARMS DAIRIES | SAN ANTONIO | TX | Texas | 1 | 1 |
| OAK FARMS DAIRIES WAS: PURE MILK COMPANY. | WACO | TX | Texas | 1 | 1 |
| PLAINS CREAMERY | AMARILLO | TX | New Mex-W Texas | 1 | 1 |
| PRICES CREAMERY, INC | EL PASO | TX | New Mex-W Texas | 1 | 1 |
| PROMISED LAND DAIRY | FLORESVILLE | TX | Texas | 4 | 4 |
| RANCHO LAS LAGUNAS | SANTA FE | NM | New Mex-W Texas | 3A | 3B |
| RASBAND DAIRY | ALBUQUERQUE | NM | New Mex-W Texas | 4 | 4 |
| SCHEPPS DAIRY, INC | DALLAS | TX | Texas | 1 | 1 |
| SOUTHWEST DAIRY | TYLER | TX | Texas | 1 | 1 |
| SUPERBRAND DAIRY PRODS, INC | FT WORTH | TX | Texas | 1 | 1 |
| VANDERVOORTS DAIRY | FT WORTH | TX | Texas | 1 | 1 |
| **Arizona-Las Vegas** | | | | | |
| ANDERSON DAIRY, INC | LAS VEGAS | NV | Great Basin | 1 | 1 |
| GOLDEN WEST DAIRIES | WELLTON | AZ | Central Arizona | 4 | OOB 9/98 |
| HETTINGA, HEIN & ELLEN | YUMA | AZ | Central Arizona | 4 | 4 |
| JACKSON & COMPANY | PHOENIX | AZ | Central Arizona | 1 | 1 |
| MEADOWWAYNE DAIRY | COLORADO CITY | AZ | Central Arizona | 5 | 4 |
| SAFEWAY STORES, INC | TEMPE | AZ | Central Arizona | 1 | 1 |
| SHAMROCK FOODS COMPANY | PHOENIX | AZ | Central Arizona | 1 | 1 |
| SMITH'S FOOD & DRUG CENTERS, INC | TOLLESON | AZ | Central Arizona | 1 | 1 |
| SUNRISE DAIRY | TAYLOR | AZ | | 5 | 3B |
| **Western** | | | | | |
| BRIGHAM YOUNG UNIVERSITY | PROVO | UT | Great Basin | 6A | 6B |
| BROWN DAIRY, INC | HOYTSVILLE | UT | Great Basin | 4 | 4 |
| CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS. | SALT LAKE CITY | UT | Great Basin | 6A | 6B |
| COUNTRY BOY DAIRY | OGDEN | UT | Great Basin | 4 | 4 |
| CREAM O'WEBER DAIRY, INC | SALT LAKE CITY | UT | Great Basin | 1 | 1 |
| DARIGOLD, INC | BOISE | ID | SW Idaho-E Oregon | 1 | 1 |
| FALCONHURST DAIRY, INC | BUHL | ID | Great Basin | 1 | 1 |
| FARM FRESH | SALEM | UT | Great Basin | 1 | OOB 8/98 |
| GOSSNER FOODS, INC | LOGAN | UT | Great Basin | 1 | 1 |
| IDEAL DAIRY, INC | RICHFIELD | UT | Great Basin | 4 | 4 |

LIST OF PLANTS AND REGULATORY STATUS—Continued

| Plant name | City | State | October 1997 | Order/ status [1] | Expected status [1] |
|---|---|---|---|---|---|
| JOHNNY'S DAIRY | SOUTH WEBER | UT | Great Basin | 4 | 4 |
| JONES DAIRY & HEALTH FOODS | TAYLORSVILLE | UT | Great Basin | 3A | OOB 12/98 |
| KDK, INC | DRAPER | UT | Great Basin | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | BOISE | ID | SW Idaho-E Oregon | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | POCATELLO | ID | Great Basin | 1 | 1 |
| MEADOW GOLD DAIRIES, INC | SALT LAKE CITY | UT | Great Basin | 1 | 1 |
| MODEL DAIRY | RENO | NV | Great Basin | 2 | 2 |
| REED'S DAIRY, INC | IDAHO FALLS | ID | Great Basin | 4 | 4 |
| ROSEHILL DAIRY | MORGAN | UT | Great Basin | 4 | 4 |
| SLADES DAIRY WAS: DALE BARKER | MOUNT PLEASANT | UT | Great Basin | 4 | 4 |
| SMITH FOOD & DRUG CENTERS, INC | LAYTON | UT | Great Basin | 1 | 1 |
| SMITH'S DAIRY | BUHL | ID | SW Idaho-E Oregon | 1 | 3B |
| STOKER WHOLESALE, INC | BURLEY | ID | SW Idaho-E Oregon | 1 | 1 |
| UTAH STATE PRISON | DRAPER | UT | Great Basin | 6A | 6B |
| UTAH STATE UNIVERSITY | LOGAN | UT | Great Basin | 3A | 6B |
| WESTERN QUALITY FOOD PRODUCTS | CEDAR CITY | UT | Great Basin | 2 | 2 |
| WINDER DAIRY | SALT LAKE CITY | UT | Great Basin | 1 | 1 |
| **Pacific Northwest** | | | | | |
| ALLISON HARDY | ELMA | WA | Pacific Northwest | 4 | OOB 5/98 |
| ALPENROSE DAIRY | PORTLAND | OR | Pacific Northwest | 1 | 1 |
| ANDERSEN DAIRY, INC | BATTLE GROUND | WA | Pacific Northwest | 1 | 1 |
| BRANDSMA, EDWARD & AILEEN | LYNDEN | WA | Pacific Northwest | 4 | 4 |
| CURLY'S DAIRY, INC | SALEM | OR | Pacific Northwest | 1 | 1 |
| DARIGOLD, INC | MEDFORD | OR | Pacific Northwest | 1 | 1 |
| DARIGOLD, INC | PORTLAND | OR | Pacific Northwest | 1 | 1 |
| DARIGOLD, INC | SEATTLE | WA | Pacific Northwest | 1 | 1 |
| DE JONG, WALTER | MONROE | WA | Pacific Northwest | 4 | OOB 8/98 |
| EBERHARD CREAMERY, INC | REDMOND | OR | Pacific Northwest | 1 | 1 |
| ECHO SPRING DAIRY, INC | EUGENE | OR | Pacific Northwest | 1 | 1 |
| EVERGREEN DAIRY, INC. (WEIKS) | OLYMPIA | WA | Pacific Northwest | 4 | OOB 5/96 |
| FAITH DAIRY, INC | TACOMA | WA | Pacific Northwest | 4 | 4 |
| FRED MEYER, INC | PORTLAND | OR | Pacific Northwest | 1 | 1 |
| GILBERT, GERALD, ET AL | OTHELLO | WA | Pacific Northwest | 4 | 4 |
| GRAAFSTRA DAIRY, INC | ARLINGTON | WA | Pacific Northwest | 4 | 4 |
| HARVEY, MIKE | VANCOUVER | WA | Pacific Northwest | 4 | 4 |
| INLAND NORTHWEST DAIRIES, LLC | SPOKANE | WA | Pacific Northwest | 1 | 1 |
| KROPF, ROY | HALSEY | OR | Pacific Northwest | 4 | OOB 9/98 |
| LOCHMEAD FARMS, INC | JUNCTION CITY | OR | Pacific Northwest | 4 | 4 |
| MALLORIE'S DAIRY, INC | SILVERTON | OR | Pacific Northwest | 4 | 4 |
| PACIFIC FOODS OF OREGON, INC | CLACKAMAS | OR | Pacific Northwest | 1 | 3B |
| SAFEWAY 85, INC | MOSES LAKE | WA | Pacific Northwest | 1 | 1 |
| SAFEWAY STORES, INC | BELLEVUE | WA | Pacific Northwest | 1 | 1 |
| SAFEWAY STORES, INC | CLACKAMAS | OR | Pacific Northwest | 1 | 1 |
| SMITH BROTHERS FARMS, INC | KENT | WA | Pacific Northwest | 4 | 4 |
| SPRINGFIELD CREAMERY | EUGENE | OR | | 3A | 3B |
| STATE OF OREGON DEPARTMENT OF CORRECTIONS. | SALEM | OR | Pacific Northwest | 2 | 3B |
| STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS. | MONROE | WA | Pacific Northwest | 4 | 2 |
| STRATTON, WARD | PULLMAN | WA | Pacific Northwest | 4 | 4 |
| SUNSHINE DAIRY, INC | PORTLAND | OR | Pacific Northwest | 1 | 1 |
| TILLAMOOK COUNTY CREAMERY ASSN | TILLAMOOK | OR | Pacific Northwest | 1 | 2 |
| UMPQUA DAIRY PRODUCTS CO., INC | ROSEBURG | OR | Pacific Northwest | 1 | 1 |
| VENN, WILLIAM (TIMOTHY & SUSAN BERNDT) | NORTH BEND | WA | Pacific Northwest | 4 | 4 |
| VITAMILK DAIRY, INC | SEATTLE | WA | Pacific Northwest | 1 | 1 |
| WAGNER, PAUL B. & SHARON | PORT ORFORD | OR | | 5 | 3B |
| WILCOX DAIRY FARMS, LLC | CHENEY | WA | Pacific Northwest | 1 | 1 |
| WILCOX DAIRY FARMS, LLC | ROY | WA | Pacific Northwest | 1 | 1 |
| WINEGAR, GARY & MARGO | ELLENSBURG | WA | Pacific Northwest | 1 | OOB 7/97 |
| PALMER ZOTTOLA DBA VALLEY OF THE ROGUE DAIRY. | GRANTS PASS | OR | Pacific Northwest | 1 | 1 |

[1] Distributing plant status (as determined from October 1997 Data):
1: Pool.
2: Partially Regulated.
3: Exempt based on size:
A. As defined under current federal orders.
B. As defined under proposed rule; with route disposition less than 150,000 lbs. per month.
4: Producer-Handler.
5: UNREGULATED.
6: Exempt based on institutional status:

A. As defined under current Federal orders.
B. As defined under proposed orders (Government, university, and charitable).
[2] New—No data for October 1997: Information not included in analysis.

**2. Basic Formula Price Replacement and Other Class Price Issues**

This rule closely follows the pricing plan described in the proposed rule by replacing the current basic formula price (BFP) with a multiple component pricing system that derives component values from surveyed prices of manufactured dairy products. The adopted pricing system determines butterfat prices for milk used in Class II, Class III and Class IV products from a butter price; protein and other solids prices for milk used in Class III products from cheese and whey prices; and nonfat solids prices for milk used in Class II and Class IV products from nonfat dry milk product prices.

The calculation of the Class I skim milk and butterfat prices for each order, determined in the proposed rule by computing a six month declining average of the higher of the Class III or Class IV skim milk prices for the second preceding month and adding a fixed Class I differential to the result, has been changed to reflect more closely the value of milk used in manufacturing. The Class I skim price for a month will be determined by adding the fixed Class I differential for each order to the higher of a Class III or IV skim value, calculated from product prices reported by NASS for the most recent two-week period for which prices are available on the 23rd day of the previous month. Similarly, the Class I butterfat price will be calculated by adding the fixed Class I differential divided by 100 to a butterfat value computed by using product prices for the same two-week period.

The price of Class II skim milk for a month will be computed by the sum of a Class IV skim price per hundredweight, calculated from product prices reported by NASS for the most recent two-week period for which prices are available on the 23rd day of the previous month, and the 70-cent Class II differential. The Class II butterfat price will be determined from the NASS-reported butter price, as in Classes III and IV, plus .7 cents per pound to incorporate the Class II differential. This price will be announced on the 5th day of the month and apply to butterfat in Class II during the previous month.

A table showing current and re-calculated prices for the period 1994 through 1997 appears at the end of this discussion of the BFP replacement. The basis for re-calculating the prices is described later in this discussion.

Provisions for Federal milk orders regulating the handling of milk in areas for which a multiple component pricing system has not been adopted will maintain a hundredweight skim/butterfat pricing system instead of the component pricing plan. The hundredweight prices will be determined by using the component price formulas contained in this decision to compute corresponding hundredweight prices using standard component levels.

*Background*

The proposed rule described in some detail the development in the early 1960's of the Minnesota-Wisconsin manufacturing grade milk price series (M–W) as a means of identifying a price determined by supply and demand for milk used in manufactured dairy products. Also described were the developments that have made the M–W less representative of the value of milk used in manufactured products. The two primary trends making the M–W less representative over the last four decades are the declining volume of Grade B (manufacturing grade) milk and the declining numbers of plants from which payments could be reported to update the base month price.

The problem of the declining number of plants from which payments could be reported to update the base month M–W survey of two months previous was addressed in 1995 by using an updating formula that uses changes from the base month to the next month in prices paid for butter, nonfat dry milk, and cheese. However, the problem of using a declining volume of Grade B milk to accurately represent the value of milk used for manufacturing was not solved with the implementation of the current BFP. The decision based on the basic formula price hearing recognized that ''the adoption of the base month M–W price, or any Grade B milk series, is only a short term solution, since the amount of Grade B milk production is expected to continue declining.''

*Process*

The Basic Formula Price Replacement Committee was one of several committees formed to deal with specific issues involved in restructuring the Federal milk order system pursuant to the 1996 Farm Bill. The Committee established goals and criteria for a new BFP, hosted a July 1996 public forum on dairy price discovery techniques in Madison, Wisconsin, and considered over 1,600 comments submitted by interested persons relative to the basic formula price in response to the May 1996 invitation to comment on Federal Order restructuring. The Committee conducted extensive study and analysis, worked with a University Study Committee (USC) commissioned to conduct objective analysis of the performance of numerous alternatives to the current basic formula price, and issued a preliminary report on BFP replacement in April 1997. The Committee studied the comments responding to the preliminary report, as well as those received earlier, in the development of the BFP replacement portion of the proposed rule, which was published in January 1998.

The goals and criteria to be met by a replacement for the basic formula price were discussed in detail in the proposed rule. Briefly, the goals are: (a) Meet the supply and demand criteria set forth in the Agricultural Marketing Agreement Act of 1937 (the Act), (b) not deviate greatly from the general level of the current BFP, and (c) demonstrate the ability to change in reaction to changes in supply and demand.

The criteria established to evaluate the various alternatives were: (a) Stability and predictability; (b) simplicity, uniformity, and transparency; (c) sound economics—e.g., consistency with market conditions; and (d) reduced regulation.

*Comments*

Of the more than 1,600 comments received relative to the basic formula price in response to the May 1996 invitation to comment on Federal Order restructuring, most favored one or more of five categories of alternatives to the current BFP. These five alternatives were: Economic formulas, futures markets, cost of production, competitive pay price, and product price and component formulas. In addition, numerous comments were received relative to the use of National Cheese Exchange prices in particular and exchange prices in general in the determination of a basic formula price.

After publication of the proposed rule in January 1998, nearly 600 comments were received relating to some aspect of the basic formula price replacement. Approximately 450 of these comments were form letters or very general in nature. For the most part, comments that related specifically to the proposal

supported the use of product price formulas and the use of surveyed product prices to calculate component prices in determining the value of milk. Many of the comments, however, suggested modifications to the proposed rule. These comments are addressed in the discussion of each of the individual topics involved in these pricing issues.

The only alternative previously considered that retained considerable support from producer organizations was a competitive pay price. In addition, many individual producer comments continued to advocate cost of production or a floor for the BFP ranging from $14.50 to $18.00. Some producers also suggested letting the market determine prices, and a few suggested supply management to ensure that farmers receive fair milk prices. One processor opposed product price formulas, suggesting that futures are the preferred tool used by markets to manage risk. Several producers supported basing producer prices on retail prices, while a state senator from Wisconsin suggested paying producers on the quality and quantity of their milk.

As noted in the proposed rule, the reason the USC dropped cost of production from consideration was that cost of production represents only the supply side of the market, ignoring factors underlying demand or changes in demand for milk and milk products.

*Competitive Pay Price*

Although some producer groups submitted comments on the proposed rule that continued to support use of a competitive pay price for determining the BFP replacement, a number of these comments stated that the pricing proposal contained in the proposed rule was one they could support. Other commenters continued to express the view that a competitive pay price is the best indicator of the national supply and demand for milk and that continuing to use such a price would provide a simple, economically defensible method of calculating the true value of milk used in manufactured dairy products.

Several proponents suggested including a competitive pay price for Grade A milk, with some adjustments, as a way to improve the size and representativeness of the competitive pay price.

As described in the proposed rule, a competitive pay price to be used as a BFP must represent the result of open market negotiation between dairy farmers (or their cooperatives) and milk processors. Competition requires sufficient numbers of buyers and sellers so that no one participant or group of participants can unduly influence the price. In addition, the price cannot be a Federal- or State-regulated price, such as the price for Grade A milk currently priced under Federal milk orders.

Identification of a competitive pay price in today's dairy industry, where 70 percent of the milk is currently covered under Federal milk marketing orders, appears to be an unsurmountable challenge. After accounting for state regulations, only about two percent of Grade A milk is unregulated, and it is unlikely that even this small amount of milk is not affected by regulated prices. Only about five percent of the total milk marketed in the U.S. is Grade B or unregulated, and 42 percent of that milk is located in Minnesota and Wisconsin. The remainder is scattered among 23 states in amounts too small and delivered to too few processing plants to generate a competitive pay price. In areas where alternative markets exist, the price for unregulated milk likely is not below the price paid for regulated milk, since producers would prefer to sell their milk to regulated handlers to receive the higher regulated price. Thus, unregulated handlers are compelled to meet the regulated price in order to attract sufficient supplies of milk. The circular result is that the regulated price ultimately becomes the competitive price. This process does not lead to a representative competitive pay price for milk.

The concept of a competitive pay price has appeal from the standpoint of sound economics. However, serious concerns must be raised about the degree of competition reflected in a price based on the declining volume of Grade B milk produced and purchased, or the introduction of Grade A milk that, even if unregulated, is significantly influenced by minimum order prices and therefore suspect as a ''competitive'' price.

The proposed rule contained a description of a BFP Replacement Committee attempt to determine a competitive pay price series that included nine states' pay prices for Grade A milk used in manufacturing, with the prices adjusted for protein content, performance premiums, over-order premiums, and hauling subsidies. The nine states accounted for approximately 75% of the Grade A milk used for manufacturing in the U.S.

The reduced price level that resulted from the study was explained in terms of currently effective pay prices in the states included in the survey and the heavier weighting of milk used in butter/powder production than in the current BFP. In addition to the negative aspects of the reduced price level and the uncertainty of being able to identify prices paid to producers that are not influenced by regulated prices, the USC analysis found that two competitive pay price series that passed the USC's level one criteria were questionable in their ability to reflect the manufactured milk market. Neither performed well when tested using the level two criteria and therefore were dropped from further consideration.

*Product Price Formulas and Component Pricing*

Most comments filed in response to the proposed rule supported adoption of the use of product price formulas to derive multiple component prices for most markets as a viable market-oriented alternative to the current basic formula price. Favorable comments expressed the opinion that a price determined from the national finished product markets more accurately reflects the value of milk for manufacturing than other methods of determining a milk price. The price handlers can afford to pay for milk is determined by the price for which the finished product can be sold. Therefore, a pricing system that translates finished product prices to a price for raw milk results in a representative raw milk price for both producers and handlers. Component pricing, with prices determined for butterfat, protein, nonfat solids, and ''other solids'' (solids other than protein), can best be accomplished through product price formulas, to reflect the value of each component in finished product prices. The product price formulas adopted in this rule are relatively easy to use and understand, and the value of milk may be computed on an on-going basis by everyone in the dairy industry by following commodity markets.

Because milk used in manufactured products obtains its value from the components of milk, it is the components that should be priced; particularly butterfat and protein, and to a lesser extent the other solids contained in the milk.

Opposition to product price formulas was directed primarily at the need for establishing product yields and make allowances in determining a milk price or component prices. Opponents expressed the view that yields and make allowances would not reflect actual processing yields and costs in manufacturing plants, and therefore would not yield an accurate price for milk. Opponents further explained that when yields and make allowances are determined, they would be difficult to adjust and would not react to changes

in manufacturing conditions. Opponents also argued that when an incorrect make allowance is established, plants are guaranteed a return, or profit, to the detriment of dairy farmers. Some comments even described the make allowance as an unfair charge paid by dairy farmers to processors to have their milk made into products. Other opponents explained that an incorrect yield or make allowance may force payment for milk at a level that would not allow a return to the manufacturing plant.

The USC tested several product price formulas, including a one-class multiple component pricing formula and a set of formulas similar to the formulas recommended in this decision. Based on the results of the USC analysis measured against several criteria, the multiple component pricing formulas had the best overall performance of any of the alternatives considered.

*Commodity Prices*

As recommended in the proposed rule and contained in this final decision, commodity prices determined by surveys conducted by the USDA's National Agricultural Statistics Service (NASS) will be used in the formulas that replace the BFP. A considerable number of comments were received concerning the use of commodity prices in determining prices for milk used in manufactured dairy products. Most of those commenting supported use of a price survey, but many commenters urged that participation be mandatory and reported prices audited, with the survey enlarged to include plants representing the entire nation so that the prices are truly representative.

Proponents of the NASS surveys explained that the NASS data is unbiased and would yield accurate representative prices of the products that are being marketed. Several comments contained specific recommendations for product categories to be surveyed to obtain the most accurate representative result.

NASS data traditionally have been collected via a survey with voluntary participation. The price information in the current cheese price survey, like most NASS data, is not audited. NASS applies various statistical techniques and cross-checking with other sources to provide the most reliable information available.

At the present time there appears to be no need for the suggested changes to the proposed surveys. The scope of the surveys that have been undertaken by NASS, and their geographic representation, appears to be comprehensive. Unless there is some indication that the prices gathered by the survey process are not representative, the very significant increase in regulation required to audit those prices and the steps that would need to be taken to make participation mandatory would be excessive and are not anticipated to be undertaken at this time.

Several alternatives to a NASS price survey were considered. There is a weekly cash butter contract trading on the Chicago Mercantile Exchange (CME). This contract is currently used to establish the butterfat differential and butterfat price in all federal milk orders. This price series has been criticized due to the ''thinness'' of trading. Dairy Market News (DMN) publishes regional wholesale butter prices. However, since DMN price series cover cash or short-term contract transactions, they may not be representative of the predominant long-term contracts. Criticism of cheese exchange trading, including inaccurate representation of cheese prices and accusations of market manipulation, reached the point that the National Cheese Exchange (NCE) discontinued trading, and cash trading of cheese moved to the CME. The CME also has received some criticism for thinness of trading.

There is very limited exchange trading of nonfat dry milk. Other alternatives to a NASS survey for nonfat dry milk and dry whey are limited to prices published by Dairy Market News (DMN). The prices reported by DMN are generally considered to be representative of the dry product markets. However, the prices are reported as a range. A simple average of the prices is used to compute a monthly price and may not reflect the weighted average price at which the product moved. The DMN prices are not intended to establish prices but are provided for market information.

The NASS ''Dairy Products Prices'' reports wholesale cheese prices which are used to compute the current BFP. The NASS survey requests prices for cheddar cheese. The instructions for the survey specify what should and should not be included in the reported prices. The instructions state that a sale occurs when a transaction is completed, cheese is ''shipped out'', or title transfer occurs. Prices for cheddar cheese only are to be reported f.o.b. the processing plant/storage center. Prices should be for ''bare'' or ''naked'' cheese with only the minimum packaging required for 40-pound blocks. Processors are asked to include all sales transactions of 40-pound blocks and barrel cheese 4–30 days old, the total volume sold, the total dollars received, or price per pound, and the moisture content of barrel cheese when it is sold. Intra-company sales, forward pricing sales, resales, transportation charges, clearing charges, and block cheese that will be aged should not be included.

At the time the proposed rule was published the NASS survey included prices for cheddar cheese only. Since publication of the proposed rule, NASS has begun surveys of Grade AA butter prices, dry whey prices, and nonfat dry milk prices. These surveys incorporate input from the dairy industry on appropriate types of products, packaging, and package sizes to be included for the purpose of obtaining unbiased representative prices. A sale is considered to occur when a transaction is completed, the product is shipped out or title transfer occurs. In addition, all prices are f.o.b. the processing plant/storage center, with the processor reporting total volume sold and total dollars received or price per pound.

Butter prices are for USDA Grade AA butter with 80 percent butterfat, salted, fresh or ''storage,'' in 25-kilogram and 68-pound boxes. Processors are instructed not to include transportation charges, unsalted butter, Grade A butter, intra-company sales, forward pricing sales, and resales.

Nonfat dry milk prices are for USDA Extra Grade or USPH Grade A non-fortified dry milk in 25-kilogram bags, 50-pound bags, or ''totes,'' and tanker sales. Several commenters suggested excluding nonfat dry milk processed with high heat treatment since such product is a higher-cost specialty product, making its price unrepresentative of the nonfat dry milk market. As a result of the comments, it was determined that only low and medium heat process nonfat dry milk should be included in the price survey. The instructions inform processors to exclude transportation charges, sales of product more than 180 days old, instant nonfat dry milk, dry buttermilk, intra-company sales, forward pricing sales, and resales.

Dry whey prices are for USDA Extra Grade edible nonhygroscopic dry whey in 25-kilogram bags, 50-pound bags, ''totes,'' and tanker sales. As is the case with the other commodities, transportation charges, intra-company sales, forward pricing sales, and resales are to be excluded as well as sales of product more than 180 days old.

Several comments expressed concern about the ''circularity'' of survey pricing that could be caused by including sales whose price is based on previous survey information. According to this view, NASS-reported prices would cease to reflect market supply and demand, with

market prices reflecting NASS-reported prices instead. These comments stated that the current pricing system relies on the market (in the form of the base month M-W survey) to correct survey results.

Under any method of discovering prices, whether those paid to producers or those paid for manufactured dairy products, prices currently known will be used as one of the determinants of prices for the following period. Under the current pricing system, it is inconceivable that handlers paying Grade B producers for their milk used in manufactured products do not consider the most recently announced prices as a starting point for determining what prices to pay their producers. When butter and cheese prices are determined at an exchange, both buyers and sellers use the exchange prices in arriving at the prices at which products will move. Ultimately, prices move in response to supply and demand conditions in the marketplace.

*Basic Formula Price Replacement*

Application of the BFP and USC Committees' criteria for BFP replacement to the various BFP alternatives and consideration of comments received in response to the proposed rule resulted in the determination that the component pricing product price formulas contained in this final rule best meet the stated goals and criteria for the replacement of the BFP.

A BFP based on commodity prices is subject to the same problems of stability as the underlying commodity prices. For the most part product price formulas do not reduce the volatility in producer milk prices.

Product price formulas are relatively simple to compute and understand, and may be applied uniformly, or on a regional basis, accommodating differences in yields or make allowances. Product prices established in a relatively free and open interaction between supply and demand directly translate the value of the finished products to the value of milk and its components. Therefore, they have a sound economic underpinning.

Product price formulas can require increased data collection, particularly if industry insists that data used in the formulas be audited.

The predictability of prices computed from product price formulas should be reasonably good, or at least no worse than predictability of the underlying commodity prices. Short run predictability may improve since all information needed to compute prices is reported on an ongoing basis. This contrasts with the present BFP computation in which the base month Minnesota-Wisconsin price is not reported until the actual basic formula price is announced.

Product price formulas are transparent, since the information to compute the price is available, and the effect of a change in commodity prices or one of the other factors may be observed and quantified.

This final rule replaces the current BFP with a multiple component pricing (MCP) system which will determine butterfat, protein, and other solids prices for milk used in Class III products and butterfat and nonfat solids prices for milk used in Class IV products.

Numerous comments were received, primarily before issuance of the proposed rule, concerning whether the revised orders should keep Class III–A (i.e. a four class market) or whether all hard manufactured products should be priced in Class III. The opposition to Class III–A centered around two issues: (1) The integrity of the classified pricing system, and (2) the perception that a butter/nonfat dry milk class would reduce producer pay prices. The supply/demand for butter and nonfat dry milk is sufficiently different from the supply/demand for cheese to justify separate classification and pricing. In addition, the decision to use the higher of the Class III or Class IV price for determining the Class I price, and base the Class II price on the Class IV price, should more accurately reflect the value of these different categories of use.

Changes in the cheese market have a major impact on the dairy industry. The cheese industry has evolved from cheese production being a means of surplus milk storage and removal to a competitive consumer demand-driven industry. More milk is used in cheese production nationally than is used in Class I. The nonfat dry milk industry is now one which balances surplus milk storage and removals. This category is also evolving, with increasing commercial uses for nonfat dry milk, and dry milk products formulated for specific needs. Increasing quantities of nonfat dry milk are being produced for use in other dairy products and the food and pharmaceutical industries.

The separation of manufacturing milk into two classes will assure that shifts in demand for any one manufactured product will not lower the prices for milk used in all other classifications, including Class I prices. Recent milk price increases have been attributed to increased cheese values. Many people expect that per capita cheese consumption will continue to grow. However, some warn of impending market saturation as more cheese plant capacity materializes and consumer tastes and preferences change. Cheese consumption patterns are based on many factors outside the dairy industry's control. Health concerns relating to changing demographics, changes in pizza consumption and income growth, as well as retail and wholesale inventory decisions, etc., will impact consumption and prices. A recent report by the Food and Agricultural Policy Research Institute noted that ''anything that results in demand weakness for cheese will likely result in a markedly different outlook for the entire dairy sector.'' The adopted pricing system will allow other manufactured products (i.e. Class IV) to move Class I prices, helping to reduce the volatility in milk prices.

Over the last six years cheese prices, and to a lesser extent butter prices, have shown considerable fluctuation while the nonfat dry milk price remained relatively stable. Price changes for these finished products are indicative of varying supply/demand situations over time. The stable nonfat dry milk prices and the butter prices prior to the fall of 1995 were a reflection of large stocks being carried in storage and flat demand. Prices for nonfat dry milk and butter became more volatile once government inventories were depleted and were no longer a factor in stabilizing prices. Butter prices increased during May and June of 1997 in response to demand for cream, while both cheese and nonfat dry milk prices remained relatively flat. These differences in price movements indicate separate supply and demand balances for different manufactured dairy products.

Research cited in the proposed rule supports the conclusion that the different supply and demand characteristics for the cheese and butter/nonfat dry milk market segments warrant separate classification and prices. This pricing plan will allow the market-clearing price level of each of these manufactured products to be achieved independent of the other products. As a result, dairy farmers will be paid a price which is more representative of the level at which the market values their milk in its different uses.

The importance of using minimum prices that are market-clearing for milk used to make cheese and butter/nonfat dry milk cannot be overstated. The prices for milk used in these products must reflect supply and demand, and must not exceed a level that would require handlers to pay more for milk

than needed to clear the market and make a profit.

The current BFP serves two functions: (1) A fixed differential is added to the current BFP to establish the Class I and Class II prices for the second succeeding month; and (2) the current BFP serves as the Class III price. In some Federal milk orders, a seasonal adjuster is added to the BFP to determine the Class III price. The BFP replacement will function in a similar fashion, using component prices. Class IV (butter and dry milk products) will be priced on a butterfat and nonfat solids basis. Class III (hard cheese) will be priced on a butterfat, protein, and other solids basis. The price of butterfat will be the same in Class III and Class IV. Class II will use the same butterfat price as Class III and Class IV with an adjustment to reflect the addition of the Class II differential. Payments to producers under MCP will be based on butterfat, protein, and other solids contained in the producers' milk, in addition to the producer price differential. Most Federal milk orders with MCP will also contain an adjustment to producer pay prices for the somatic cell counts of producers' milk.

The producer price differential reflects the collective value of participation in the marketwide pool. Primarily, it represents the producer's pro rata share of the additional value of Class I and Class II use in the market. The butterfat, protein, and other solids prices are component prices based on the value of the use of milk in manufacturing.

The Class I price will consist of a Class I butterfat price and a Class I skim milk price. As modified from the proposed rule, the Class I butterfat price will be determined by adding a fixed Class I differential divided by 100 to an advanced butterfat price computed using product prices for the most recent two-week period for which prices are available on the 23rd day of the month and will apply to the following month. The Class I skim milk price will be determined by adding the fixed Class I differential for each order to the higher of an advanced Class III or IV skim milk price, calculated by using product prices for the same two-week period. The calculation of Class I prices will be the same for both MCP and non-MCP markets.

Announcement of Class I butterfat and skim milk prices in advance eliminates current problems caused by calculating the butterfat differential after the month for which it is effective. Handlers will have true advance Class I pricing. There will be three different butterfat prices each month (Class I, Class II, and other classes) but no butterfat differential. The separate Class I butterfat price should present no administrative or verification problems since Class I butterfat testing and reporting currently exists.

The prices for butterfat, protein, and other solids used in Class III will be computed as follows:

Butterfat price = ((NASS AA Butter survey price—0.114)/0.82)

Protein price = ((NASS cheese survey price—0.1702) × 1.405) + ((((NASS cheese survey price—0.1702) × 1.582)—butterfat price) × 1.28)

Other solids price = ((NASS dry whey survey price—.137)/0.968).

For milk used in Class IV products the butterfat price is the same as the Class III butterfat price, while the nonfat solids price will be computed as follows:

Nonfat solids price = ((NASS nonfat dry milk survey price—0.137)/1.02).

This system of pricing best fits the three established goals and criteria, discussed previously, for a replacement to the BFP.

The first goal, that a replacement for the basic formula price meet the supply/demand criteria set forth in the Act, may be the most difficult to evaluate definitively since the Act specifically mentions minimum prices to producers. The BFP, as part of a classified pricing system, does contribute to minimum prices to producers. However, the basic formula price does not need to be set at a level to ''assure an adequate supply of wholesome milk'' since the BFP makes up only a portion of the minimum price paid to farmers. The minimum price to farmers is a weighted average of the value of all of the milk in the market place, of which the BFP is a part. The BFP replacement meets the supply and demand criteria for milk used in butter/nonfat dry milk and cheese even though the component prices are established from finished product commodity prices. The commodity prices are based on a competitive marketplace and reflect the supply and demand for those products (Class III and Class IV) that utilize approximately 50% of the Grade A milk supply.

The supply and demand for Grade A milk is not limited to one category of products. The same milk may be used for fluid or soft manufactured products as well as the Class III and Class IV products used to determine the BFP. As a result, the minimum prices established for Class III and Class IV reflect supply and demand for the milk used in all products.

In several comments received in response to the proposed rule, commenters expressed the view that the proposed product price formulas did not meet the requirements of the Act, and that an updated competitive pay price resembling the current BFP would be the appropriate replacement for the current BFP. For a price to be competitively established there must be a large number of willing buyers and sellers. The current base month price is established from a survey of pay prices for Grade B or manufacturing grade milk in Minnesota and Wisconsin. Whether prices paid for Grade B milk are representative of the value of Grade A milk is debatable. In addition, the volume of Grade B milk involved represents a declining production base from which to gather pay prices, and the number of plants buying manufacturing grade milk is continuing to decline, with many plants refusing to buy manufacturing grade milk even when they need milk and Grade A milk is more expensive. In other situations the manufacturing grade milk is procured because the seller of the milk is a member of the cooperative purchasing the milk and the cooperative will not deny market access to its member. Such a situation clearly is not competitive.

The Act stipulates that the price of feeds and the availability of feeds be taken into account in the determination of milk prices. This requirement currently is fulfilled by the BFP. If the price of feed increases the quantity of milk produced would be reduced due to lower profit margins. As the milk supply declines, plants buying manufacturing milk would pay a higher price to maintain an adequate supply of milk to meet their needs. As the resulting farm profit margins increase, so should the supply of milk. Likewise, the reverse would occur if the price of feed declines. The price of feed is not directly included in the determination of the price for milk, but rather causes a situation in which the price of milk may increase or decrease. A change in feed prices may not necessarily result in a change in milk prices. For instance, if the price of feed increases but the demand for cheese declines, the milk price may not increase since milk plants would need less milk and therefore would not bid the price up in response to lower milk supplies.

The pricing system contained in this decision will function in the same manner as the current pricing system by accounting for changes in feed costs and feed supplies indirectly. The product price formulas adopted in this rule should reflect accurately the market values of the products made from producer milk used in manufacturing. As feed costs increase with a resulting

decline in production, commodity prices would increase as a result of manufacturers attempting to secure enough milk to meet their needs. Such increases in commodity prices would mean higher prices for milk. The opposite would be true if feed costs were declining. Additionally, since Federal order prices are minimum prices, handlers may increase their pay prices in response to changing supply/demand conditions even when Federal order prices do not increase.

The second goal for a BFP replacement is that it should not deviate greatly from the price level of the current BFP. In effect, prices established by the current BFP formula in the past were used as a benchmark to compare how well the product price formulas adopted in this decision tracked the supply and demand conditions exhibited by the BFP. Several comparisons of the basic formula price replacement were made to the current BFP to determine whether the price computation formulas result in a price level for milk used in manufactured products that is reasonably close to the current BFP. It must be recognized that after the initial implementation of the revised prices, supply and demand factors will interact to adjust the actual price level to reflect the market for milk used in manufactured dairy products.

Protein, butterfat, and other solids values were combined to compute a Class III hundredweight price using standard factors of 3.1 for protein and 5.9 for other solids contained in skim milk, and 3.5 for butterfat. The resulting price averaged $0.47 or 3.7 percent below the current BFP for the 60-month period of January 1994 through December 1998. The Class IV hundredweight price, computed from the butterfat price times 3.5 and the nonfat solids price using a standard factor of 9 for nonfat solids contained in skim milk, averaged $0.50 or 3.9 percent below the current BFP during the same period. The replacement Class III and Class IV prices were both highly correlated with the current basic formula price. The Class III price had a .981 correlation coefficient while the Class IV price had a .744 correlation coefficient.

The above comparisons are based on applying the component pricing formulas to commodity prices that were in effect during the period examined. Therefore, price level comparisons can only provide an indication of how the BFP replacement prices may have behaved. The current BFP has been responding to changing market conditions, while the replacement formulas are applied to historic data which has exhibited changes over time in response to existing price levels, rather than marketing conditions that would have occurred under the BFP replacement. Additionally, the current BFP may have a greater tendency to reflect supply and demand conditions in Minnesota and Wisconsin rather than national supply/demand conditions. The formulas in this decision use national commodity price series, thereby reflecting the national supply and demand for dairy products and the national demand for milk.

The basic formula price replacement also meets the third primary goal. The formulas have the ability to respond to supply/demand changes. The Class III and Class IV prices should respond appropriately since the formulas use NASS-surveyed commodity prices that reflect national supply and demand for these commodities.

Overall, the BFP replacement formulas (for Class III and Class IV) meet the established criteria necessary for a BFP replacement. The formulas are relatively simple to use and can be applied uniformly. The formulas are transparent and the Class III and Class IV formulas meet the sound economics criterion.

In the near term, the use of NASS survey prices may reduce the ability to predict Federal order class prices since there is a limited history of using NASS survey prices. Predictability should improve over time as the relationship between the survey prices and easily-tracked exchange prices becomes apparent to industry observers.

The formulas used in the basic formula price replacement likely will result in prices that are less stable than the current BFP. Unlike the current BFP, in which commodity updates are used to adjust the producer pay price survey, changes in product prices will be the sole determinants of changes in component prices. Past observation of competitive pay prices and commodity prices indicates that generally competitive pay prices do not move as quickly as commodity prices. Since the current BFP is based primarily on the base month survey price, the commodity-driven price series adopted in this rule will react more quickly to changes in the commodity markets than the current BFP reacts.

*Make Allowances*

Use of an economic engineering approach to determine appropriate make allowances was investigated. Neither the time nor the resources are available to construct models for determining appropriate make allowances at this time. As an alternative, various sources were used to determine appropriate make allowances for the basic formula price replacement. Research by Stephenson and Novakovic of Cornell University indicates that results obtained by using an economic engineering approach can be comparable to a survey of plants. Resources may need to be devoted to developing an economic engineering model, a survey, or a combination of the two.

The make allowances contained in the proposed rule were developed primarily from make allowance studies conducted at and published by Cornell University and an analysis of manufacturing plant size in relationship to the data contained in the Cornell studies. Audited cost of production data published by the California Department of Food and Agriculture was also used in determining a reasonable level of make allowances.

The proposed rule make allowances used in computing the component prices for Class III and Class IV resulted in per hundredweight prices which did not deviate greatly on average from the current BFP over the period analyzed, one of the criteria for a basic formula price replacement. During the September 1991 through May 1997 period on which the analysis in the proposed rule was based, the proposed Class III price level would have averaged $0.26 per hundredweight above the current BFP, with Class IV prices averaging $0.22 per hundredweight below.

Nearly all comments received relating to make allowances asserted that the proposed rule allowances were understated. Both handler and producer interests argued that failure to cover processors' costs of converting milk to finished products results in a disincentive to produce finished dairy products. They expressed concern that the disincentive would discourage investment in the manufacturing sector, leading to reduced manufacturing capacity and reduced outlets for producers' milk. A few commenters stated that make allowances should cover the costs of only the most efficient processors, and others objected to the inclusion of any make allowances, which they characterized as a charge against producers to pay processors for processing milk.

Producers objected to the inclusion of manufacturing allowances for milk processors while no allowance is made for producers to recognize any fixed recovery of the cost of producing milk. The current pricing system, using the BFP, also does not assure producers a fixed rate of return. However, because

the BFP is based on a competitive pay price of what manufacturers pay dairy farmers for milk, the manufacturers' make allowance has, in effect, been deducted from prices received from the sale of manufactured products before the pay prices are reported. Therefore the differences between the current pricing system using the BFP and the pricing system contained in this decision with respect to make allowances deals with the level and stability of make allowances rather than their existence.

National Milk Producers Federation (NMPF) supported use of a survey of dairy product manufacturing costs that has been conducted by the Rural Cooperative Business Service (RCBS), with some modifications, to establish Federal order make allowances. Many other comments supported the NMPF position. NMPF suggested adding a marketing cost allowance of $0.015 per pound of product to the manufacturing costs. NMPF explained that the addition of the marketing allowance was necessary since the NASS price data that will be used in the formulas includes the marketing costs covered by the $0.015.

The RCBS survey contains data for six cheese plants, six nonfat dry milk plants and five butter plants. In addition, the survey results include manufacturing data from three dry whey plants. The plants included in the survey represent a wide geographic representation of the United States. Given the limited number of plants involved in the study, however, regional information is unavailable. The survey results also represent a range of packaging types which can affect the final make allowance.

International Dairy Foods Association (IDFA) suggested that make allowances be determined by computing weighted averages of the results of the RCBS survey and the California audited make allowances. IDFA also included a $0.015 marketing cost adjustment as well as adjusting the RCBS make allowance to incorporate the same return on investment that is included in the California make allowance. IDFA and numerous other commenters explained that a return on investment is necessary for manufacturers to continue to invest in plants and equipment.

A number of comments were filed urging that make allowances be determined by auditing manufacturing plants in the same manner practiced by the State of California. Proponents explained that California has had long and successful experience with auditing make allowances and that a similar procedure could and should be implemented in Federal orders.

At this time the use of the RCBS study and the California data are deemed to be adequate for determining the initial make allowances contained in this decision. Several problems exist with auditing make allowances. First, the Federal milk order system currently is not equipped to handle the type of audits necessary for determining appropriate make allowances. An increase in market administrator administrative fees would be required to acquire and train auditors to conduct the make allowance audits, since these audits would have to be done in addition to the current audit program. Since most Class III and Class IV manufacturing is done in plants that currently are unregulated, authority to audit these plants to obtain make allowance data would need to be obtained. In addition, the industry may request a hearing on an expedited basis and present relevant data to justify changing make allowances. Therefore, there is no current plan to begin auditing manufacturing plants for the purpose of obtaining make allowance data.

The level of the make allowances included in this decision is based on input by all sectors of the dairy industry. If the make allowances are established at too low a level, manufacturers will fail to invest in plants and equipment, and reduced production capacity will result. If the make allowances are established at too high a level there will be unwarranted incentive to increase capacity above the needs of the industry, leading to overcapacity and resulting losses to manufacturers. Either scenario would not be in the best interest of the dairy industry. Manufacturing plant operators who find the level of make allowances inadequate compared to their actual costs also have the alternative to not participate in a Federal order marketwide pool.

Most commenters agreed with NMPF and IDFA that the make allowances proposed to be used for the butterfat and nonfat solids prices were too low, and the resulting prices too high. NMPF suggested that a make allowance of $.1327 per pound of butter (plus the $.0015 marketing cost, or $.1342) would be appropriate for use in the butterfat price calculation, and IDFA favored a make allowance of $.114, compared to the proposed make allowance of $.079. Several commenters suggested use of California make allowances.

The formula for determining the butterfat price for butterfat used in Class III and Class IV products will be computed using the following formula:

Butterfat price = ((NASS AA Butter survey price − 0.114)/82).

The make allowance of $0.114 per pound of butter is determined by adding to the RCBS survey make allowance a marketing cost of $0.015 and a return on investment of $.0068, which is the same return on investment included with the California butter processing cost. The RCBS make allowance included packaging costs for print butter; therefore, $0.0175 was deducted from the make allowance to adjust for the difference between print and bulk butter packaging. The California butter processing cost was also adjusted by the $0.015 marketing cost. A weighted average make allowance was then computed using the adjusted RCBS make allowance and pounds of butter contained in the RCBS survey and the adjusted California butter processing cost and the pounds of butter represented by the California butter plant audit. The resulting make allowance of $0.114 is $0.035 greater than the $0.079 make allowance contained in the proposed rule. An increase in the butter price formula make allowance will allow plants to recover a larger percentage of the costs of producing butter than under the proposed rule.

Comments on the computation of a nonfat solids price included suggestions by NMPF that the nonfat dry milk make allowance level should be $.1245 plus the $.0015 marketing cost, or $.126, and by IDFA that $.137 would be an appropriate level, compared to the $.125 used in the proposed rule. Several other commenters favored the California make allowance, suggesting something in the $.135–$.14 per pound range for nonfat dry milk.

The formula for computing the nonfat solids prices for milk used in Class IV will be as follows:

Nonfat solids price = ((NASS nonfat dry milk survey price − 0.137)/1.02).

As in the case of computing the butterfat make allowance, the nonfat solids make allowance is a weighted average of the RCBS survey and the California processing costs. A marketing cost of $0.015 and a return on investment of $0.0159 was added to the RCBS survey while the $0.015 marketing cost was added to the California price. The resulting make allowance of $0.137 per pound of nonfat dry milk is $0.012 more than the proposed rule make allowance of $0.125. The resulting increase in the make allowance will allow plants to recover a larger percentage of the cost of

producing nonfat dry milk than they would have using the make allowance included in the proposed rule.

In addition to revising the make allowance for computing the nonfat solids price, the yield factor is also adjusted. In the proposed rule a yield factor of .96 was used in the nonfat solids formula. The .96 was intended to represent the 96 pounds of solids in 100 pounds of nonfat dry milk. Most parties, including IDFA and NMPF, commented that the .96 was inappropriate and that a factor of 1.02 was more appropriate. Since buttermilk powder is also a product of manufacturing butter and nonfat dry milk, its value needs to be addressed. Because the proposed rule did not account for the yield of buttermilk, the .96 factor was appropriate. However, failing to account for buttermilk powder resulted in overstating the nonfat solids price since the pounds of nonfat solids were understated. Use of the 1.02 factor allows the nonfat solids contained in nonfat dry milk and buttermilk powder to be accounted for, and the value of all nonfat solids to be accurately reflected in the nonfat solids price.

The results of the revisions made to the butterfat and nonfat solids formulas yield a Class IV hundredweight price that would have averaged four cents below the current Class III–A price and fourteen cents above the California 4a price over the period of January 1994 through December 1998. These results address the major concern of many of the comments that the Class IV prices in the proposed rule were too far out of alignment with California 4a prices for Federal order plants to be competitive. The more important criteria of reflecting supply and demand is also met by the revised formulas. Research by Knutson, Anderson, Awokuse, and Siebert showed that the formulas contained in the proposed rule outperformed the current basic formula price in reflecting supply and demand. Under the revised formulas the level of prices will be changed, but not their relationship to supply and demand.

Nearly all comments on the cheese make allowance proposed for use in computation of the protein price described the proposed $ .127 make allowance as too low, resulting in a too-high protein price. NMPF supported use of the RCBS survey results ($ .1421), which were somewhat higher than the proposal. IDFA supported using an average of the RCBS survey and California make allowances, which generally are higher still ($ .152). A number of other commenters argued that the proposed cheese make allowance would cover the cost of making none of the cheese made in California. The Dairy Institute of California advocated make allowances of at least $.17 for blocks and $.14 for barrels.

Many commenters insisted that barrel cheddar cheese prices should be included in a weighted average with block cheddar prices since much more barrel cheese is produced than block cheese. NMPF urged that the barrel price not be included because barrels don't have uniform composition, and because the use of such prices would have the effect of unnecessarily reducing prices to producers. Other commenters suggested that if barrel prices are included, they should be increased by 3 cents per pound to make up for the difference in packaging costs. Still other commenters argued that all varieties of cheese should be included in the NASS price survey to assure that all cheese value is captured.

The formula for computing the protein price for milk used in Class III is as follows:

Protein price = ((NASS cheese survey price − 0.1702) × 1.405) + ((((NASS cheese survey price − 0.1702) × 1.582) − butterfat price) × 1.28)

The NASS cheese survey price will be determined by adding three cents to the moisture-adjusted barrel price and then computing a weighted average price using the block cheese price and the adjusted barrel price times the pounds of each cheese type in the NASS survey and dividing by the total pounds of block and barrel cheese in the NASS survey. Including both block and barrel cheese in the price computation increases the sample size by about 150 percent, giving a better representation of the cheese market. Since the make allowance of $0.1702 is for block cheese, the barrel cheese price must be adjusted to account for the difference in cost for making block versus barrel cheese. The three cents that is added to the barrel cheese price is generally considered to be the industry standard cost difference between processing barrel cheese and processing block cheese.

The make allowance used in computing the protein price, $0.1702, was established by computing a weighted average make allowance using the RCBS survey and the California processing costs. The RCBS survey was adjusted by adding a marketing cost of $0.015 and a return on investment of $0.0104 for a total of $0.1540 while the California processing costs were increased by a marketing cost of $0.015 for a total of $0.1855. The weighted average was then computed by multiplying the pounds of cheese represented in each study by the respective prices. The resulting total was divided by the total pounds of cheese represented by the studies.

The factors used in the formulas for computing component prices are determined by the quantity of the component in the commodity, except for protein, for which the Van Slyke yield formula is used. In the protein formula, the 1.405 and 1.582 are yield factors derived from the Van Slyke cheese yield formula. Both the 1.405 and 1.582 factors are determined by calculating the change in cheese yield if an additional tenth of a pound of protein or butterfat is contained in the milk, holding everything else constant.

The proposed rule used a 1.32 factor times the cheese price for use in computing the protein price. The change to a factor of 1.405 reflects the use of true protein as the basis for payments for protein rather than using a measurement of ''total nitrogen'' for the protein content of milk. The resulting protein price will be for a pound of ''true protein.''

Total nitrogen protein content and true protein content both result from chemical (Kjeldahl) testing methods approved for determining the protein content of dairy products by the Association of Official Analytical Chemists. When expressing protein based on total nitrogen, the protein percentage is over-stated by the amount of non-protein nitrogen (which has little or no effect on dairy product yields) present in the milk. Therefore, when milk is priced on the basis of its true protein content rather than its content of protein measured by total nitrogen, the price per pound of protein should be higher.

Currently, nearly all testing of milk for payment purposes is performed using infrared electronic testing equipment. At the wave-length filter at which protein is measured, only true protein is detectable. To calibrate for total nitrogen a bias factor has to be used to compensate for the non-protein nitrogen. It is also likely that the level of non-protein nitrogen will vary in every set of calibration samples, creating more problems in accurately calibrating electronic infrared instruments. Calibration for the true protein content of milk is more accurate than the calibration for total nitrogen protein. Because the accuracy of testing for true protein is higher than for total nitrogen protein, which has relatively little value, Federal milk orders should price milk on the basis of its true protein content rather than its total nitrogen protein content.

Comments on the proposed rule included discussion of the proposal to incorporate the difference in butterfat value between cheese and butter within the protein price. NMPF suggested that the .90 factor that results in a 1.582 multiplier should, instead, be .91 and result in a 1.60 multiplier because that factor more closely reflects the current retention of butterfat in cheddar cheese manufacturing. The IDFA comment argued that using the 1.60 multiplier would increase an already-high protein price. Another comment urged that the Grade A butter price be used instead of the AA price, because the value of butterfat in cheese shouldn't be increased over its value in butter. Further, the comment argued that the additional value of butterfat in cheese is added by the cheesemakers, and shouldn't be used to increase prices to producers.

Since Class III includes other types of cheese, such as mozzarella that has a lower fat retention than cheddar cheese, increasing the value attributed to that retention is not appropriate. Increasing the protein price for all milk used in Class III based on only a portion of the products included in Class III would put the other Class III products at a competitive disadvantage. Calculation of a minimum price will enable handlers to adjust prices paid to producers to account for additional value above the minimum Federal order prices. Therefore, the 1.582 factor will be used in the protein price formula contained in this decision.

Since Class III and Class IV use the same butterfat price, accounting for the difference in value of butterfat in cheese versus the value of butterfat in butter is necessary. This difference in value is included with the protein price calculation as a means of quantifying the amount by which the value of butterfat in cheese varies from the value of butterfat in butter. Attributing the additional value to protein is possible because it is the casein in protein that forms the molecular matrix that retains the butterfat in cheese. Without enough protein in milk to retain the butterfat in cheese, the butterfat would have a lower value in whey butter in most months. The ratio of butterfat to protein, 1:1.28, is calculated from the protein and butterfat yield factors of 1.405 and 1.582.

An alternative to incorporating the butterfat value in cheese with the protein price is to compute a separate butterfat price for Class III. This would be a relatively simple formula to compute. However, having multiple butterfat prices would require full plant accountability of components in all manufacturing plants. The resulting increased accounting, reporting, and administrative costs were determined to not be warranted when viewed against the small gain from having an additional butterfat price.

Use of the protein price formula adopted in this decision will increase the protein price by approximately 15 cents per pound when compared with calculating the protein price on the basis of total nitrogen protein. However, the increase is almost entirely negated by the lower content of true protein than of total nitrogen protein in milk. On a hundredweight basis, the change to true protein results in an increase to the Class III price of an average of 2 cents when compared to the formula using total nitrogen protein.

Use of true protein instead of total nitrogen protein for determining payments to producers should have a minimal impact on producer revenues. Producers with relatively high levels of non-protein nitrogen in their milk could see a slight drop in their revenue derived from the protein content of their milk.

In addition to changing the coefficients in the protein price formula to adjust for the use of true protein, the fixed protein and other solids values used in computing a per hundredweight Class III price must be adjusted. Accordingly, the Class III price will be computed by multiplying the butterfat price by 3.5 and adding the result of multiplying .965 times the sum of 3.1 times the protein price and 5.9 times the other solids price.

In comments filed in response to the proposed rule, NMPF suggested a $.1575 whey make allowance plus the $.0015 marketing cost, for $.1590, rather than the $.10 proposed. IDFA argued that a $.171 make allowance would be more appropriate. Wisconsin Cheesemakers indicated that the Class III price should not include a value for whey, as it frequently represents a cost to manufacturers. The Dairy Institute of California agreed that a whey factor should not be included, but that if it is, the yield factor (divisor) should be .98 (instead of .968).

The formula used for computing the other solids price is:

Other solids price = ((NASS dry whey survey price − .137)/0.968).

The determination of the $0.137 make allowances was based on several factors. Whereas the other make allowances were based on a weighted average of the RCBS study and California make allowances, the other solids make allowance is based primarily on the Cornell study of dry whey and whey protein concentrate make allowances. The Cornell study was used since California does not audit dry whey manufacturing costs and the RCBS survey has very limited data on dry whey manufacturing costs. The data on dry whey in the RCBS study expresses the costs on a per pound of cheese basis rather than on a per pound of dry whey basis. The $0.137 figure is slightly above the average cost of the model plants in the Cornell study and the same as was used for nonfat solids.

A value for other solids is included in Class III to assure that the Class III price reflects most of the value of milk used in Class III products. In the Federal milk orders currently pricing three components, the other solids price is determined by subtracting the value of butterfat and protein from the BFP. In this final rule the other solids price is established independently of the butterfat and protein price. Even though there is not a market for other solids as such, the dry whey price was determined to be the best indicator of value for other solids and provides a method of accounting for and distributing the value in Class III milk that is not accounted for in the protein and butterfat components. Other potential price series that could be used to determine the value of other solids were whey protein concentrate and lactose. Under present market conditions, dry whey offers more market activity with less specialization than either whey protein concentrate or lactose, and therefore constitutes a better price series for determining a minimum Federal order price. Comments filed by several parties supported the use of dry whey for the determination of the other solids price. The 0.968 factor in the formula represents the pounds of solids contained in a pound of dry whey.

Since the make allowances are applied on a component basis rather than on a hundredweight of milk basis comparisons to traditional make allowances may be difficult. Also, a make allowance that may seem reasonable when applied to a component may be seen as inappropriate when combined with the other components in the finished product. To evaluate the make allowances on a per hundredweight basis the Class III and Class IV milk prices were compared to the value of cheese and butter/powder using the CCC yield factors. These results were compared to the same calculation using the current BFP and the CCC yield factors. A comparison over time between the current level of class prices paid for producer milk and the value of

the manufactured products made from that price class of milk shows a reasonably stable difference between the two levels. This difference is the implied make allowance.

The implied make allowance for butter/powder using the current BFP for the period January 1994 through July 1998 was $0.83 per hundredweight, while the implied make allowance for butter/powder versus the Class III–A price was $1.37 per hundredweight. The implied make allowance calculated for the Class IV price, based on historical prices, would have been $1.41 per hundredweight. With the implied make allowance for the Class IV price being only $0.04 from the actual implied Class III–A make allowance, the butter make allowance and the nonfat dry milk make allowance, in combination, appear to approximate the current implied make allowance.

Determination of the make allowance for Class III is more difficult than for Class IV, in which butterfat and skim solids make two unique finished products. In cheese manufacture, most of the butterfat remains in the cheese with most of the protein, and a portion of the protein, butterfat and remaining nonfat solids are contained in the whey, which can be made into various products. The combination of the butterfat, protein, and other solids make allowances resulted in an implied make allowance of $2.72 for Class III (cheese) compared to the implied make allowance of $2.21 for the current BFP. Even though the implied make allowance using the Class III formulas in this decision is greater than the current implied make allowance it is appropriate since the CCC formula is basically a cheddar cheese yield formula whereas Class III contains multiple varieties of cheese and certain other products. A slightly larger make allowance in Class III will not place makers of products that have significantly different cost structures than cheddar cheese at a competitive disadvantage when participating in Federal orders relative to handlers who do not participate in the Federal orders.

Changes in make allowances will affect component prices and per hundredweight milk values. A one-cent per pound change in the butter make allowance will affect the butterfat price in the opposite direction by $0.0122 per pound. This would be $0.0427 per hundredweight for milk at 3.5 percent butterfat. The butterfat price also is used in the computation of the protein price. The protein price will change inversely to the butter make allowance by $0.0146 per pound or $0.046 per hundredweight for milk with 3.15 percent protein. A positive make allowance change for nonfat dry milk will result in a decline in the nonfat solids price. A one-cent change in the nonfat dry milk make allowance will result in a $0.0098 per pound or $0.0882 per hundredweight opposite change in the nonfat solids price. A one-cent change in the protein make allowance will cause an opposite change in the protein price by $0.0322 per pound or $0.1014 per hundredweight for milk with 3.15 percent protein. Finally, a one-cent change in the other solids (dry whey) make allowance will change the other solids price by $0.0103 per pound or $0.0567 per hundredweight in the opposite direction.

This pricing system eliminates the need for regional yields based on regional differences in milk composition. The value of milk will be adjusted automatically based on the level of components contained in the milk in each order even though the component prices are the same nationally. This automatic adjustment means that handlers will pay the same price per pound of component but may have differing per hundredweight values based on the milk component levels, creating equity in the minimum cost of milk used for manufacturing purposes.

Several comments were received suggesting that regional BFP replacement prices be used rather than a national BFP replacement. The commenters explained that cheese, butter, and nonfat dry milk have different values in different regions of the country, and that the Cornell study described a price surface for milk used in manufactured products across the United States. Therefore, they concluded, the replacement BFP also should be determined regionally.

This decision replaces the current BFP with a national Class III price and a national Class IV price. Although there may be some justification for regional pricing, there are two principal reasons for using national pricing. First, pricing milk on the basis of the pounds of components contained in the milk eliminates some of the regional differences in milk prices. Second, regional commodity price data, and for that matter regional competitive pay price data, are unavailable. Resulting attempts to estimate regional differences, with the ensuing regional differences of opinion, would yield minimal benefits.

An analysis of the basic formula price replacement requires several assumptions. Historical commodity price surveys are not available for all of the commodities. Prices used as substitutes for historical price survey data in this analysis include a cheese price computed by comparing the current NASS cheese price series to the comparable NCE/CME price series for the purpose of determining a historical protein price. The NCE/CME series was then adjusted by means of a regression analysis to reflect the differences between the NASS prices and the exchanges. The resulting price series simulates the use of the NASS series for the time period studied. For the butter price, the data from the ''BFP Committee Commodity Price Study'' was compared to the CME Grade AA cash butter price series. The CME Grade AA price series was then adjusted accordingly to make it more comparable with the Committee Price Study. Available survey prices used were nonfat dry milk prices and dry whey prices, both of which are published monthly by NASS in ''Dairy Products''. While a nonfat dry milk price and dry whey price are published in ''Dairy Products'' at the beginning of each month for the second previous month, the new weekly NASS survey discussed earlier is necessary to determine prices on a more current basis.

One of the initial requirements of a basic formula price replacement, based on the assumption that the national supply and demand for manufacturing milk as reflected in the current BFP is in relatively good balance, is that the price level not deviate greatly from the current basic formula price. The examples contained in the proposed rule resulted in the Class III portion of the BFP replacement averaging $0.45 per hundredweight above the current Class III price, and the Class IV portion of the BFP replacement averaging $0.13 per hundredweight above the current Class III price, both for the 48-month period January 1994 through December 1997.

In addition to comparing the Class III and Class IV price series to the current BFP, the Class III price was also compared to the California 4b price, while the Class IV price was compared to the Class III–A price and to the California 4a price. Comparisons to the California prices are included because many commenters expressed the view that the proposed rule resulted in prices that put plants regulated by Federal orders at a competitive disadvantage to California plants and that alignment with California pricing was essential. Most commenters did not express the view that Federal order prices should equal California prices, but that Federal order prices should be in alignment, i.e. ''reasonably close''. For comparison purposes all prices are expressed on a

per hundredweight basis with 3.5 percent butterfat. The Class III price was determined by using 3.1 pounds of protein and 5.9 pounds of other solids in 100 pounds of skim milk. To compute a 3.5 percent hundredweight price the skim milk value was multiplied by .965 and added to the butterfat price that was multiplied by 3.5. The same procedure was used for the Class IV price, with 9 pounds of nonfat solids in a hundred pounds of skim milk.

For the period January 1994 through December 1998, the Class III price averaged $0.47 below the current BFP and $0.20 above the California 4b price, while the Class IV price averaged $0.50 cents below the current BFP, $.04 cents below the current Class III–A price, and $0.15 above the California 4a price.

In addition to comparing the value differences between the Class III and Class IV prices and the current BFP, it is important to compare the relationship in price movements between the Class III and Class IV prices and the current basic formula price. Correlation coefficients were computed to statistically test the relationships between the Class III and Class IV prices, the current basic formula price, and the California prices. The correlation coefficient between the Class III price and the current basic formula price is above .98 while the correlation coefficient between the Class IV price and the current basic formula price is approximately .74. The correlation between the Class IV price and the current Class III–A price is .99. The correlations between the Class III and Class IV prices and California prices are also quite high, with the Class III price and the California 4b price having a correlation coefficient of .97 while the Class IV price and the California 4a price show a correlation coefficient of .99. These relationships are expected since the current basic formula price is weighted more heavily on milk used for the manufacture of cheese than on the value of milk used in the manufacture of butter and nonfat dry milk.

The Class III and Class IV formulas are computed from product prices representing the use of milk in each class. That is, the Class III price is derived from the value of cheese while the Class IV price is derived from the value of butter and nonfat dry milk. Therefore the Class III and Class IV prices can be expected to vary significantly from the current BFP in individual months, reflecting the economic (supply and demand) conditions for cheese, butter, and nonfat dry milk. This situation is particularly true of the Class IV price. For example, during 1993 and 1994 the price of butter and nonfat dry milk was relatively low and stable compared to the price of cheese. The degree of variability of individual months' prices from the average for the year is expressed by a standard deviation. A lower standard deviation indicates that individual observations (in this case, monthly product prices) vary less from the mean than would be indicated by higher standard deviations. These statistical descriptions indicate the difference in variability of prices between butter/powder and cheese in 1993 and 1994.

During 1994 the Class IV price would have averaged $10.26 with a standard deviation of $0.11, compared to the 1994 BFP average of $12.00 with a standard deviation of $0.57, and the average Class III price of $11.47 with a standard deviation of $0.69. For 1998, when the economic conditions for butter and nonfat dry milk had changed and prices became more volatile, the Class IV price would have averaged $14.79 with a standard deviation of $2.13 versus the 1998 BFP average of $14.20 with a standard deviation of $1.97, and the Class III average price calculation of $13.84 with a standard deviation of $2.14.

The Class III and Class IV prices clearly reflect the value of the milk used in the respective manufactured products, whereas the current basic formula price reflects primarily the value of milk used to manufacture cheese in a particular region of the U.S. (Minnesota and Wisconsin).

*Class I*

As in the proposed rule and currently, the basic formula price replacement will act as a mover for the Class I price in addition to establishing prices for milk used in Class III and Class IV. Also as proposed, the Class I value will be separated into two parts: skim milk and butterfat. However, instead of the proposed six-month declining average of the higher of each month's Class III and Class IV skim and butterfat prices, the Class I price mover will be determined by the most recent manufacturing product prices available. The advanced price aspect of the Class I price mover will also be shortened from the current and proposed timing of the Class I price announcement. Both the Class I skim and butterfat components will be announced on the 23rd day of the preceding month using advance pricing factors based on product prices for the most recent two weeks. The Class II skim milk price will be announced similarly. This change from the proposed rule is being made to respond to numerous handler comments on the proposed rule and to address class price inversion that occurred during the second half of 1998.

Comments relating to replacement of the BFP as a Class I price mover that were filed before issuance of the proposed rule ranged from favoring continuation of the current system to establishment of the Class I price independently of the basic formula price(s) for milk used in manufactured products. One comment suggested eliminating the basic formula price and pooling only the Class I and Class II differentials. These comments were fully considered in the proposed rule.

Numerous comments received in response to the proposed rule favored advance pricing of Class I skim and butterfat separately. However, a number of commenters expressed concern that use of the higher of the Class III or Class IV prices in the calculation of the Class I price mover would result in undue enhancement of Class I prices. The most controversial aspect of the Class I price mover proposal was the use of a 6-month declining average. Many of the comments received concerning the Class I mover expressed the view that the Class I price must be closely and directly linked to the manufacturing price in the same manner that occurs currently. Commenters expressed the view that the current system, two-month advance pricing, closely links the manufacturing value of milk to Class I and therefore gives appropriate price signals to producers. They opposed the six-month declining average on the basis that the delay in linkage with the Class I price would be too long and that Class I pricing would be counter cyclical. Some who opposed the time lag built into the 6-month declining average suggested that a 3-month average would do as well at attaining some stability without as much ''de-linking.''

Several commenters opposed building less volatility into Class I prices than into manufacturing class prices. Among the reasons given were that added stability for Class I would mean greater volatility in prices for manufactured products, and that added stability would favor producers in high Class I markets.

Other comments on the proposed rule supported variations of a 12-month rolling average Class I price mover, some with seasonal adjustments. A number of comments favored the stability of the longer-term basis for Class I prices. One graph submitted shows a very close relationship between the 6-month declining average mover and the current BFP.

There are several conflicting issues that must be balanced when establishing the Class I price mover. First, the retail demand for Class I milk is independent of the demand for manufactured dairy products. Second, the raw material used in both Class I products and manufactured dairy products is the same and therefore the separate uses must compete for the given supply of milk. Third, the elasticity of demand for the various dairy products is significantly different, creating different consumer responses to the changing prices for various dairy products. The Federal milk orders have attempted to address these issues through classified pricing. This system allows a higher price to be applied to milk used for Class I uses due to inelastic demand for Class I products. This higher price also allows Class I uses of milk to compete for the raw milk supply against manufactured dairy products. At the same time, marketers of Class I products support some degree of forward pricing, requiring processors of Class I products to know the Class I price in advance.

Most of those commenting on the proposed rule and the Department perceive the need to reflect changes in the prices for milk used in manufactured products in the price of milk used in fluid products. Since Class I handlers must compete with manufacturing plants for a supply of milk, the Class I price must be related to the price of milk used for manufacturing.

It is apparent from the price patterns of a large part of 1998 that the current two-month lag between manufacturing and fluid pricing does not establish as close a relationship between the two price levels as is desirable. Indeed, from an analysis of the differences between prices generated by a six-month declining average and the current pricing system, it is clear that the current two-month lag does not accomplish any closer relationship between manufacturing and fluid prices than would the six-month declining average.

When manufactured dairy product prices are relatively stable the advance pricing of Class I milk works quite well. However, since 1988 the volatility in the manufactured dairy product market has caused problems with the advance pricing of Class I milk. The first problem is readily evident in class price relationships during the latter part of 1998. The frequent occurrence of price inversions during that period indicates that some alteration to both the proposed and current methods of computing and announcing Class I prices may be necessary. Class price inversion occurs when a markets's regulated price for milk used in manufacturing exceeds the Class I (fluid) milk price in a given month, and causes serious competitive inequities among dairy farmers and regulated handlers. Advanced pricing of Class I milk actually causes this situation when manufactured product prices are increasing rapidly.

Since the Class I price is announced in advance, in a rapidly changing market the Class I price may not reflect the value needed to compete for the necessary raw milk supply or the Class I price may be overvalued relative to the raw milk price. Undervaluing Class I milk is a particular problem since it reduces producers' pay prices at a time when the producers should be receiving a positive price signal. As an example, in July 1998 the Class I price in every Federal order market except one was below the Class III price. Although July is not a period of very high Class I demand, it is a time when Class I demand is starting to increase in some regions relative to total milk production. At this same time producers in these regions received lower pay prices. Many Federal milk orders also experienced a Class I price below the Class III price in August as a result of two-month advance pricing of Class I. Demand for Class I milk increases substantially in August. While producer prices rose in August, the increase would have been larger had Class I prices been based on more current Class III prices. Under these pricing relationships, the Class I handler may have a more difficult time acquiring milk as the minimum Federal order Class I price puts the handler at a disadvantage to handlers demanding milk for manufacturing purposes. Since Class I handlers must compete with manufacturing plants for a supply of milk, the Class I price must be related to the price of milk for manufacturing.

Another problem inherent in the current method of announcing Class I prices in advance is that the price for milk established in advance is for milk containing 3.5 percent butterfat. The current system does not determine the price of butterfat in advance, therefore the Class I handler does not know the value of milk at butterfat contents other than 3.5, until the butterfat differential is announced in the month following sale of the processed product. Under this final decision, Class I handlers will have advanced price information for both the skim and butterfat portions of the Class I price.

The purpose of the minimum Class I differential is to generate enough revenue to assure that the fluid market is adequately supplied. As a result of advance pricing, the effective Class I differential—that is, the actual difference between the Class I and manufacturing use prices in a month—is not the same as the Class I differential stated in an order. While the effective Class I differential varies monthly, it generally has remained positive. Recent increased volatility in the manufactured product markets has resulted in more instances in which the effective Class I differential has been negative, especially in markets with low minimum Class I differentials.

In the past when price inversions have occurred, the industry has contended with them by taking a loss on the milk that had to be pooled because of commitments to the Class I market, and by choosing not to pool large volumes of milk that normally would have been associated with Federal milk order pools. When the effective Class I differential is negative, it places fluid milk processors and dairy farmers or cooperatives who service the Class I market at a competitive disadvantage relative to those who service the manufacturing milk market.

Milk used in Class I in Federal order markets must be pooled, but milk for manufacturing is pooled voluntarily and will not be pooled if the returns from manufacturing exceed the blend price of the marketwide pool. Thus, an inequitable situation has developed where milk for manufacturing is pooled only when associating it with a marketwide pool increases returns.

Illustrative of the worsening class price inversion problem are the growing volumes of milk that, while normally associated with Federal milk orders, are not being pooled due to price inversion problems. When the Class II, III, and/or III–A prices are higher than a handler's blend price adjusted for location, it becomes disadvantageous for handlers processing soft and hard manufactured products to pool milk. That is, instead of drawing money out of the pool, they have to pay money into the pool. In 1995, the volume of milk not pooled due to class price inversion was 5.3 billion pounds. In 1997, nearly 7.8 billion pounds were not pooled for this reason. In 1998, 14.1 billion pounds were not pooled due to class price inversions. During each of five of the seven months of June through December 1998, the volume of milk not pooled exceeded 2 billion pounds. In July 1998, class price inversion occurred in all Federal order markets except Southeastern Florida, and in 19 markets some milk was not pooled due to class price inversion.

Since volatility in the manufactured product markets is expected to

continue, the Class I price mover developed as part of this Federal milk order reform process should address this disorderly marketing situation.

The advanced pricing procedure provided in this final decision results in a Class I price that is based on a more recent manufacturing use price, thus reducing (but not eliminating) the time lag that contributes to class price inversion. For example, the January 1999 Class I price for each market would be announced on December 23, 1998 and would be based on product prices reported on December 10 and 17. (The prices reported on these dates are for the weeks ending December 4 and 11.) Under the current procedure, the January Class I price was announced on December 3, 1998 and was based on product prices reported for weeks ending November 6, 13, 20, and 27.

While the advance pricing procedure in this decision reduces the time period of advance notice by about 18 days, the reduction in advance notice of Class I and II prices should not add significant risk or burden to handlers. The pricing formulas are based solely on product prices which are announced weekly; therefore, handlers can update formulas on a weekly basis to estimate what the Class I price will be before the price is announced. Also, as more NASS product price survey observations become available, basis differences from earlier traded/issued product price surveys such as those from the Chicago Mercantile Exchange or Dairy Market News will be more predictable and, therefore, should provide for more accurate predictions of future price levels. In addition, futures markets have been established for the four dairy products in the NASS price surveys. While trading to date in these contracts has not been large, interest in these markets may increase as the industry learns to use them as effective hedges to the component values determined under this final decision. These markets also will assist handlers in estimating the Class I price.

Using the current two-month advance pricing system, but substituting for the current BFP the higher of the Class III or IV prices as defined under this rule, markets with a Class I differential of $1.60 per hundredweight or less would have faced a price inversion in four of the last seven months of 1998. The range of the price inversion would have been $.21 to $1.49. In a fifth month, price inversion would have occurred at a Class I differential of $1.49 or lower. In September 1998, price inversion would have occurred in all Federal order markets except Florida. However, using the shortened advance period adopted in this decision, for markets with a Class I differential of $1.60 per cwt., price inversion would have occurred in only two of the last seven months of 1998. The range of the price inversion would have been $.02 to $.86. The shortened period of advance pricing reduces both the occurrences and level of price inversion.

To further illustrate that the advance pricing procedure in this final decision provides a Class I price level that is less likely to be below the manufacturing use price, the following analysis was done. Averages of the 1998 NASS product prices for the current month, the second preceding month, and the two-week period available on the 23rd of the preceding month were computed and compared. For all four products, the preceding month two-week average provided a better estimate of the current month average than did the average for the second preceding month. Looking at the Cheddar cheese price series, the two-week preceding month price was $.03 closer to the current month on a simple average basis, and $.04 closer on an absolute average basis. This means that using preceding month two-week average Cheddar cheese price would result in a Class III skim milk price that would be about $.40 per cwt. closer to the following month's Class III skim milk price than if the second preceding month's price is used.

As stated earlier, advance pricing affects the function of the minimum Class I differential. The advance pricing procedure in this decision reduces the difference between the manufacturing use price used to establish the Class I price and the manufacturing use price in the current month. This procedure will result in an effective Class I differential that would be closer to the Class I differential stated in each order. Thus, reducing the time lag of the Class I pricing advance improves the functionality of the minimum Class I differential.

Comments filed by some southern interests indicated that stability in pricing in the southeast U.S. should incorporate seasonal price incentive programs as a necessary part of adequately supplying the fluid markets of the southeast. According to the commenters, such a program would encourage balancing production with fluid milk demand. The comments state that because such a pricing plan would be revenue neutral, it would allow for more price stability and more reliable price signals than is currently available for producers in high Class I utilization areas.

Addition of seasonal adjustments for marketing areas would disrupt the uniformity in pricing between marketing areas that is a goal of this pricing plan. The seasonal patterns of milk production and consumption are not the same between regions, and it would be difficult, if not impossible, to attempt to work out seasonal pricing as a part of the BFP replacement.

As discussed previously, the price link between Class I use and Grade A milk used to manufacture Class III and Class IV products should be maintained since Grade A milk can be used for fluid uses as well as for manufacturing uses. Because handlers compete for the same milk for different uses, Class I prices should exceed Class III and Class IV prices to assure an adequate supply of milk for fluid use. Federal milk orders traditionally have viewed fluid use as having a higher value than manufacturing use. The replacement Class I price mover reflects this philosophy by using the higher of the Class III or Class IV price for computing the Class I price.

In some markets the use of a simple or even weighted average of the various manufacturing values may inhibit the ability of Class I handlers to procure milk supplies in competition with those plants that make the higher-valued of the manufactured products. Use of the higher of the Class III or Class IV price will make it more difficult to draw milk away from Class I uses for manufacturing. For example, if the Class IV price were used as the Class I price mover there would be months in which the Class III price would be more than two dollars above the Class IV price. As a result, the Class I differential would have to be well over two dollars for the Class I price to remain above the Class III price. If the Class III price is used as the Class I price mover, the reverse situation of having the Class IV price well above the Class III price would result in the same problem. The potential of having a Class III or IV price in excess of the Class I price is not entirely eliminated by using the higher of the Class III or Class IV price because of the advance Class I pricing feature. However, reducing the time period for which Class I pricing is advanced should reduce the potential considerably, allowing Class I handlers to compete more effectively with manufacturing plants for fluid milk.

*Class II*

Under this final decision, the value of Class II skim milk will be computed by multiplying the hundredweight of producer skim milk allocated to Class II by the sum of an advanced Class IV skim price, calculated from nonfat dry milk product prices reported by NASS

for the most recent two-week period for which prices are available on the 23rd day of the preceding month, and the 70-cent Class II differential. The price used for valuing Class II butterfat will be the current month's butterfat price determined from the NASS-reported butter price, as in Classes III and IV, plus .7 cents per pound to incorporate the Class II differential.

Generally, the source of inputs alternative to producer milk for the manufacture of Class II products is dry milk products and butterfat that otherwise would be used in butter. Basing the price of milk used to make Class II products on these alternative ingredients should help considerably to remedy a situation in which it is perceived that a separate product class for dry milk (Class III–A) has resulted in a competitive advantage over producer milk used to produce Class II products. The 70-cent differential between the Class IV and Class II skim milk prices is an estimate of the cost of drying condensed milk and re-wetting the solids to be used in Class II products. One commenter suggested that there should be a $1.00 difference between Class IV and Class II.

Comments filed in response to the proposed rule generally supported basing the Class II price on the Class IV price. However, many commenters, including operators of plants manufacturing food products, argued that the proposed $0.70 differential is too high. In many cases they stated that the cost for rehydration is substantially lower than $0.70, if the nonfat dry milk is rehydrated at all.

Only a small portion of the $0.70 differential is intended to represent the cost of rehydration. The majority of the $0.70, $0.57, represents the cost of drying condensed milk. Comments filed by Kraft, Inc., stated that the cost of using nonfat dry milk (NFDM) in Class II is 0–3 cents per pound. At a rate of 9 pounds of NFDM per hundredweight of skim milk, this cost could represent as much as 27 cents per hundredweight. When added to the 57-cent cost of drying condensed milk, the 70-cent differential appears to be justified. It should be noted that the cost to purchase or manufacture NFDM for use in Class II products would include not only the cost of milk at the Class IV price, but the cost of making NFDM (in excess of $1.20 per hundredweight of skim milk when the make allowance for a pound of NFDM is multiplied by the yield).

Many of the commenters suggested that a rate of $0.30 is appropriate since that is what is used currently in the Federal orders. The current Class II differential, $0.30, was established by a national hearing conducted in 1991. At that hearing proponents of a $0.30 Class II differential explained that the average difference between Class II prices and Class III prices over a recent time period had averaged $0.30. The $0.30 difference was not based on the actual cost differences between existing classes of milk.

The Class II price level determined under this final rule should not, on average, be higher than its predecessor. The concern of commenters that the level of the proposed Class II price would be excessive should be mitigated somewhat by the reduction in the level of the Class IV formula adopted in this rule. For the period January 1994 through December 1998, the Class II price as determined in this final rule averaged $0.01 higher than the current Class II price. There is a very large variation from year to year in the differences between the current and adopted Class II prices. In 1994, the current Class II price averaged $1.50 more than the Class II price calculated according to this decision. For 1998, however, with butter prices at record levels, the Class II price computed from butter and powder prices averaged $1.58 higher than the current Class II price. These price differences illustrate the result of pricing Class II milk on the basis of manufactured ingredients instead of on the basis of cheese.

Many of the comments received concerning the Class II price opposed the proposal to price Class II on a current basis rather than on an advance basis as is currently the case. The commenters argued that since Class II products are sold on an advance basis similar to Class I products the continuation of advance pricing of Class II is essential. Other commenters expressed the view that the skim portion of Class II could be forward priced but butterfat should be priced on a current basis since competing uses for butterfat such as cheese and butter would be priced on a current basis. Class II products high in butterfat, such as ice cream, could be placed at a competitive disadvantage in procuring butterfat if the current month's butterfat prices are substantially different than the advanced priced butterfat price.

The Class II price adopted under this rule will result in forward pricing the skim milk portion of Class II while pricing butterfat on a current basis. Butterfat used in Class II products competes on a current-month basis with butterfat for used in cheese and butter, and its price should be determined on the basis of the same month's values. Forward pricing of skim milk will, of course, eliminate some of the desired direct linkage between the nonfat solids price in Class II and the nonfat solids price in Class IV. However, especially with the shortened period of advanced pricing, in most cases the linkage should remain close enough so that the Class II differential does not encourage the drying of milk for Class II uses just to receive a price advantage. This alignment also should reduce perceived problems in the use of nonfat dry milk to make Class II products. Tying the Class II price to the Class IV price by this fixed differential, even with advanced pricing for Class II skim, should reduce the incentive to produce nonfat dry milk for use in Class II products.

*Quality Adjustments*

This final decision provides for the adjustment of producer payments for the somatic cell count of producers' milk under most orders using multiple component pricing. Payments made by handlers for milk used in Class II, Class III, and Class IV also will be adjusted on the basis of the somatic cell count of the milk.

A somatic cell count (SCC) adjustment is appropriate for several reasons. First, SCCs are not only an indicator of general milk quality, but also are an indicator of the potential yield of milk in cheese and other products that require casein for their structure and body. Research has shown a direct link between increased SCCs and decreased cheese yields.

Second, many producers currently are subject to some type of multiple component pricing plan or quality premium program that adjusts their pay prices for somatic cell levels even if the order in which their milk is pooled does not incorporate such adjustments. Although many producers' returns are affected by the SCC of the milk, there is little, if any, oversight of the testing for somatic cells if the order does not include pricing adjustments. Fair and accurate testing can be assured by incorporating multiple component pricing and somatic cell adjustments into Federal orders.

The somatic cell adjustment will apply on a hundredweight basis and be computed by subtracting the SCC (in thousands) from 350 and multiplying the result by the product of .0005 times the monthly average cheese price used to compute the protein price. This level of adjustment has worked well in orders currently containing somatic cell adjustments, and is supported by data and research contained in Federal milk order hearing records.

There was not a great deal of agreement on how to determine which orders should provide for SCC adjustments. Some commenters favored their inclusion in all markets and some favored a SCC adjustment on all milk priced under multiple component pricing. NMPF favored SCC adjustments for regions that want them. A Northeast producer group argued that the limited effect of SCCs on Class II and Class IV uses makes them unsuitable for use as an adjustment factor for milk in the Northeast. One fluid milk handler opposed their application to Class I use, while several others opposed excluding Class I milk from using somatic cell count as a cost component because such an adjustment could result in fluid handlers receiving lower-quality milk.

The application of somatic cell adjustments will be limited to orders providing for multiple component pricing, since the detrimental economic effect of somatic cells has been shown to occur principally with respect to the protein component of milk. SCCs unquestionably do have detrimental effects on the flavor and keeping quality of fluid milk products, and undoubtedly on other dairy products as well, but the economic quantification of those effects is not part of the information available for this decision. There are three order areas in which producer sentiment is opposed to the inclusion of SCC adjustments, and these adjustments are not adopted for the three orders. In the case of the Pacific Northwest and Western consolidated orders, most producers already are covered under very effective SCC payment programs, and the average SCC in these markets is less than 250,000 (below the neutral level for SCC value adjustments). There would seem to be little reason to require additional SCC programs for these orders. In addition, the Northeast order does not contain a SCC adjustment. Comments filed by Northeast interested persons argued that the predominant use of milk for manufacturing in that area is nonfat dry milk and butter, and that yields of these products are not affected by SCCs. A somatic cell value adjustment is not, therefore, included in the Northeast order.

As in the proposed rule, for the orders containing a somatic cell adjustment provision the adjustment will be applied to milk used in Classes II, III and IV for handler billings, and to all producer milk for payment to producers. This application of a SCC adjustment has worked well in the orders currently providing for it, and should result in no additional marketing, testing or accounting requirements in those orders. At least some portions of most of the consolidated orders for which the SCC adjustment is provided already contain such provisions.

Several comments suggested including a maximum count of 25,000 psychrotrophic bacteria as a criterion for payment of positive SCC adjustments. Even though there may be a valid reason for including psychrotrophic bacteria for payment purposes, bacteria counts will not be included with this decision. Somatic cell counts are the only quality adjustments in this final decision. The issue of whether to include psychrotropic bacteria as a payment criteria is better left to a Federal order hearing that specifically addresses the issue. In contrast to a somatic cell adjustment, which already is contained in many of the orders with multiple component pricing, none of the orders currently provide for adjustments for bacteria counts.

*Application of the Replacement Basic Formula Price(s)*

Under this final rule, producers in most Federal order markets will be paid on a multiple component basis since the basic formula price replacement is based on individual milk component prices. Producers will be paid for the pounds of butterfat, pounds of protein, pounds of other solids, a per hundredweight price known as the producer price differential, and a per hundredweight somatic cell adjustment. The producer price differential returns to producers their pro rata share of the proceeds of the classified pricing system. The butterfat, protein, and other solids prices paid to producers will be the same as the prices for those components announced for Class III use regardless of the utilization of the milk. Handler obligations and producer payments under the Federal orders that do not provide for component pricing will be based on hundredweight prices computed from these component prices.

Although several comments supported the proposal that multiple component pricing (MCP) be applied only to milk used in Classes II, III and IV, several comments from the Southwest area argued that it should be applied to all milk or not adopted at all. National Farmers Organization (NFO) also favored the adoption of component pricing for all classes of milk, and other comments favored the adoption of MCP for all Federal milk orders.

Several New York comments stated that MCP would not benefit producers, would serve only to impose higher costs on handlers, and shouldn't be adopted for the Northeast. Michigan Milk Producers expressed concern that the adjustment of protein value to reflect the effect of additional butterfat in cheese would increase costs in the Mideast because of the high percentage of milk used in (lowfat) Italian and Swiss cheese in that market, and requested that the Mideast market provide for the same kind of MCP pricing currently used in the Southern Michigan market.

All Federal orders outside of the three southeast orders with relatively high Class I use (Appalachian, Florida and Southeast) and Arizona-Las Vegas should contain the same component pricing plan. The affected orders have a large portion of their milk used in manufactured products, and the components in that milk that determine the yield of product available for handlers to sell are the most appropriate basis for determining its value. At the same time, there is no indication that MCP should apply to Class I milk, and it is difficult to justify pricing fluid milk on an MCP basis in terms of the economic value of components in those products.

Although the proposed rule included provisions for the Mideast order that would continue elements of the current Southern Michigan MCP plan, further study supports the conclusion that there is no benefit to establishing a component pricing plan under one order that differs significantly from the rest of the consolidated orders. This issue is discussed more thoroughly in the Mideast section of this decision.

All of the Federal milk orders will require changes to accommodate replacement of the current BFP with the multiple component pricing plan or with its hundredweight price equivalent. There will no longer be a butterfat differential under any order, but butterfat prices. The same butterfat price will be used for butterfat in Class II (with an addition of .7 cents per pound to reflect the Class II differential), Class III, and Class IV, while a separate butterfat price, announced in advance, will apply to butterfat used in Class I.

For purposes of allocation of producer receipts the assumption will be made that the total nonfat solids, protein and other (nonfat) solids cannot be separated easily from skim milk. These nonfat solids will therefore be allocated proportionately with the skim milk based on the percentage of protein and other solids in the skim milk received from producers.

For the Market Administrator to compute the producer price differential, handlers will need to supply additional information on their monthly reports of receipts and utilization. Handlers that are filing reports in orders that currently

have multiple component pricing and a somatic cell adjustment will see little or no change in their reporting requirements. Under orders that are adopting component pricing for the first time, the pounds of protein, the pounds of other solids, and somatic cell information will be needed in addition to the product pounds and the butterfat currently reported. This data will be required from each handler for all producer receipts, including milk diverted by the handler, receipts from cooperatives as 9(c) handlers and, in some cases, receipts of bulk milk received by transfer or diversion.

Payments by handlers to cooperative associations for Class I milk will be calculated on the basis of the hundredweight of Class I skim milk times the Class I skim price plus the pounds of Class I butterfat times the Class I butterfat price. Payment for Class II milk will be determined on the basis of the Class II pounds of nonfat solids times the Class II nonfat solids price (or, in non-MCP orders, the Class II skim milk price times the hundredweight of Class II skim milk), and the pounds of butterfat in Class II times the Class II butterfat price. The Class II nonfat solids price is computed by dividing the Class II skim milk price by 9. Class III milk will be paid for based on the pounds of protein in Class III times the protein price, the pounds of other solids in Class III times the other solids price, and the pounds of butterfat in Class III times the butterfat price. The pounds of nonfat solids in Class IV times the nonfat solids price, and the pounds of butterfat in Class IV times the butterfat price will be used to calculate obligations for Class IV milk. Milk used in Classes III and IV in orders that do not include MCP will be paid for on the basis of the butterfat price per pound and the applicable skim milk price per hundredweight. The appropriate somatic cell adjustment will apply to milk in Class II, Class III, and Class IV.

The Class I value of milk to handlers will be calculated by multiplying the hundredweight of producer skim milk in Class I times the Class I skim price plus the pounds of Class I butterfat times the Class I butterfat price. Class II milk value will be computed on the basis of the Class II nonfat solids price times the pounds of total nonfat solids in skim milk allocated to Class II and the pounds of butterfat in Class II times the Class II butterfat price. Class III milk value will be computed based on the pounds of protein in Class III times the protein price, the pounds of other solids in Class III times the other solids price, and the pounds of butterfat in Class III times the butterfat price. The pounds of nonfat solids in Class IV times the nonfat solids price, and the pounds of butterfat in Class IV times the butterfat price will comprise the value of Class IV producer milk. Milk used in Classes III and IV in orders that do not include MCP will be paid for on the basis of the butterfat price per pound and the applicable skim milk price per hundredweight. Also included will be the appropriate somatic cell adjustment applied to milk in Class II, Class III, and Class IV, the value of overage, the value of inventory reclassification, the value of other source receipts and receipts from unregulated supply plants allocated to Class I, and the value of handler location adjustments.

For each marketwide pool using MCP, a producer price differential price per hundredweight will be computed that will represent producers' shares of the value of the pool. The total value of milk to handlers in excess of the value of producer protein, other nonfat solids and butterfat at the applicable component prices will be determined by dividing that value by the hundredweight of milk in the pool. For orders without MCP, the value of milk to handlers will be divided by the hundredweight of producer milk to compute a uniform price per hundredweight to producers.

The handler's obligation to the producer settlement fund under MCP orders will be determined by subtracting from the handler's value of milk the following values: (a) The total pounds of producer milk times the producer price differential adjusted for location, (b) the total pounds of butterfat times the butterfat price, (c) the total pounds of protein times the protein price, (d) the total pounds of other solids times the other solids price, (e) the total value of the somatic cell adjustments to producers' milk, and (f) the value of other source milk in Class I at the producer price differential with any applicable location adjustment at the plant from which the milk was shipped deducted from the handler's value of milk. In orders without MCP, handler obligations will be computed by subtracting the value of producer milk at the uniform price per hundredweight from the value of milk to the handler.

Payments to producers traditionally have been made in two payments, a partial payment based, in most cases, on the prior month's Class III price and a final payment at the uniform price to producers. This traditional payment system will continue, with any exceptions for local marketing practices noted in the regional discussions. The partial payment will be paid on a per hundredweight basis with the price equaling the combined value of the skim and butterfat prices for the lowest-priced class in the previous month. By computing the partial payment on a hundredweight basis, confusion about the use of partial month component test averages will be eliminated and handler's partial payroll processing costs should not be affected. Final payments to producers and for 9(c) milk will be based on: (a) the hundredweight of milk times the producer price differential adjusted for location, (b) the pounds of protein times the protein price, (c) the pounds of other solids times the other solids price, (d) the pounds of butterfat times the butterfat price, and (e) the somatic cell adjustment rate times the hundredweight of milk.

Since producers will be receiving payments based on the component levels of their milk, the payroll reports that handlers supply to producers and to the Market Administrator must reflect the basis for such payment. Therefore the handler will be required to supply the producer not only with the information currently supplied, but also: (a) The pounds of butterfat, protein, and other solids in the producer's milk, as well as the average somatic cell count of the producer's milk, and (b) the minimum rates that are required for payment for each pricing factor and, if a different rate is paid, the effective rate also. The requirement that payment factors be reported to producers when producers are paid currently exists in all of the orders. Addition of the component information is purely a conforming change. Administration of these provisions should not be changed from current practices.

With advance pricing of Class I and the inherent instability of the commodity markets there may be occasions when the computation of the producer price differential results in a value of zero or below. The orders should contain no provision to prevent the producer price differential from being a negative value.

The following tables contain the prices computed based on the formulas and data series described in this final decision for the period of January 1994 through December 1998. The prices are shown for information purposes only. These prices result from the strict application of the formulas to prior marketing situations. These prices should not be interpreted as prices that would have actually occurred throughout the data period because industry participants likely would have reacted differently to the price levels that would have resulted from the

revised pricing plan than they reacted to the actual price levels.

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ACTUAL CLASS PRICES AND FINAL DECISION CLASS PRICES AND CLASS I PRICE MOVER,* BY MONTH, JANUARY 1994 THROUGH DECEMBER 1998

[Dollars per cwt.]

| Year and month | Basic formula price | Final class I price mover* | Final class III price | Class III–A price | Final class IV price | Class II price | Final class II price |
|---|---|---|---|---|---|---|---|
| 1994 | | | | | | | |
| January | $12.41 | $11.72 | $11.49 | $10.22 | $10.22 | $13.25 | $11.05 |
| February | 12.41 | 11.73 | 11.64 | 10.23 | 10.19 | 12.26 | 10.90 |
| March | 12.77 | 12.02 | 12.33 | 10.32 | 10.33 | 12.61 | 11.01 |
| April | 12.99 | 12.90 | 12.89 | 10.34 | 10.41 | 13.19 | 11.10 |
| May | 11.51 | 12.15 | 11.05 | 10.24 | 10.17 | 13.88 | 11.06 |
| June | 11.25 | 10.56 | 10.37 | 10.09 | 10.10 | 12.18 | 10.72 |
| July | 11.41 | 11.10 | 10.90 | 10.13 | 10.18 | 10.35 | 10.80 |
| August | 11.73 | 11.63 | 11.06 | 10.38 | 10.42 | 11.84 | 11.03 |
| September | 12.04 | 11.84 | 11.76 | 10.35 | 10.32 | 12.95 | 10.93 |
| October | 12.29 | 11.92 | 11.74 | 10.36 | 10.31 | 12.15 | 10.90 |
| November | 11.86 | 11.80 | 11.49 | 10.40 | 10.36 | 12.53 | 11.01 |
| December | 11.38 | 10.91 | 10.88 | 10.17 | 10.16 | 12.24 | 10.87 |
| Average | 12.00 | 11.69 | 11.47 | 10.27 | 10.26 | 12.45 | 10.95 |
| 1995 | | | | | | | |
| January | 11.35 | 10.64 | 10.66 | 10.06 | 10.07 | 11.02 | 10.71 |
| February | 11.79 | 11.19 | 11.33 | 10.12 | 10.23 | 11.35 | 10.85 |
| March | 11.89 | 11.59 | 11.49 | 10.22 | 10.25 | 12.20 | 10.85 |
| April | 11.16 | 11.07 | 11.08 | 10.27 | 10.28 | 12.09 | 10.89 |
| May | 11.12 | 10.74 | 10.55 | 10.21 | 10.29 | 12.19 | 10.89 |
| June | 11.42 | 10.78 | 10.56 | 10.37 | 10.36 | 11.46 | 11.04 |
| July | 11.23 | 11.10 | 10.64 | 10.61 | 10.60 | 11.42 | 11.23 |
| August | 11.55 | 11.00 | 10.88 | 10.82 | 10.94 | 11.72 | 11.52 |
| September | 12.08 | 12.51 | 12.37 | 10.90 | 10.89 | 11.53 | 11.52 |
| October | 12.61 | 12.93 | 12.69 | 11.66 | 11.46 | 11.85 | 12.09 |
| November | 12.87 | 13.19 | 12.96 | 12.40 | 11.95 | 12.38 | 12.52 |
| December | 12.91 | 13.34 | 12.84 | 11.24 | 11.13 | 12.91 | 11.61 |
| Average | 11.83 | 11.67 | 11.50 | 10.74 | 10.70 | 11.84 | 11.31 |
| 1996 | | | | | | | |
| January | 12.73 | 12.82 | 12.32 | 11.16 | 11.15 | 13.17 | 11.84 |
| February | 12.59 | 12.62 | 12.37 | 10.39 | 10.70 | 13.21 | 11.63 |
| March | 12.70 | 12.66 | 12.52 | 10.32 | 10.49 | 13.03 | 11.17 |
| April | 13.09 | 12.84 | 13.15 | 10.52 | 10.65 | 12.89 | 11.29 |
| May | 13.77 | 13.68 | 13.12 | 11.90 | 11.74 | 13.00 | 12.12 |
| June | 13.92 | 14.28 | 13.31 | 15.12 | 14.25 | 13.39 | 14.07 |
| July | 14.49 | 15.41 | 13.41 | 16.01 | 15.32 | 14.07 | 15.95 |
| August | 14.94 | 15.32 | 14.02 | 15.82 | 15.44 | 14.22 | 16.35 |
| September | 15.37 | 15.74 | 15.17 | 15.85 | 16.09 | 14.79 | 15.89 |
| October | 14.13 | 15.28 | 13.54 | 14.94 | 14.82 | 15.24 | 15.62 |
| November | 11.61 | 12.33 | 11.33 | 12.18 | 12.10 | 15.67 | 13.03 |
| December | 11.34 | 11.06 | 10.68 | 11.75 | 11.76 | 14.43 | 12.67 |
| Average | 13.39 | 13.67 | 12.91 | 13.00 | 12.88 | 13.93 | 13.47 |
| 1997 | | | | | | | |
| January | 11.94 | 11.62 | 11.05 | 11.50 | 11.68 | 11.91 | 12.52 |
| February | 12.46 | 11.95 | 11.56 | 12.36 | 12.34 | 11.64 | 13.02 |
| March | 12.49 | 12.74 | 11.55 | 12.78 | 12.80 | 12.24 | 13.33 |
| April | 11.44 | 12.65 | 11.23 | 12.10 | 12.13 | 12.76 | 12.87 |
| May | 10.70 | 11.20 | 10.23 | 11.56 | 11.58 | 12.79 | 12.53 |
| June | 10.74 | 11.95 | 9.96 | 12.22 | 12.06 | 11.74 | 12.77 |
| July | 10.86 | 11.98 | 10.13 | 12.06 | 11.93 | 11.00 | 12.54 |
| August | 12.07 | 11.97 | 11.50 | 11.88 | 11.91 | 11.04 | 12.63 |
| September | 12.79 | 12.42 | 12.32 | 11.87 | 11.83 | 11.16 | 12.55 |
| October | 12.83 | 12.76 | 12.54 | 13.50 | 13.29 | 12.37 | 13.98 |
| November | 12.96 | 13.80 | 12.59 | 14.01 | 13.86 | 13.09 | 14.56 |
| December | 13.29 | 13.81 | 12.55 | 12.46 | 12.72 | 13.13 | 13.43 |
| Average | 12.05 | 12.40 | 11.43 | 12.36 | 12.34 | 12.07 | 13.06 |
| 1998 | | | | | | | |
| January | 13.25 | 12.76 | 12.51 | 12.04 | 12.29 | 13.26 | 13.02 |
| February | 13.32 | 13.03 | 12.87 | 12.89 | 13.07 | 13.59 | 13.78 |
| March | 12.81 | 12.75 | 12.50 | 12.67 | 12.79 | 13.55 | 13.49 |

ACTUAL CLASS PRICES AND FINAL DECISION CLASS PRICES AND CLASS I PRICE MOVER,* BY MONTH, JANUARY 1994 THROUGH DECEMBER 1998—Continued

[Dollars per cwt.]

| Year and month | Basic formula price | Final class I price mover* | Final class III price | Class III–A price | Final class IV price | Class II price | Final class II price |
|---|---|---|---|---|---|---|---|
| April | 12.01 | 12.69 | 11.50 | 12.88 | 12.90 | 13.62 | 13.59 |
| May | 10.88 | 13.27 | 10.65 | 13.96 | 13.54 | 13.11 | 14.24 |
| June | 13.10 | 14.20 | 12.65 | 15.38 | 14.89 | 12.31 | 15.54 |
| July | 14.77 | 15.35 | 14.12 | 15.59 | 15.62 | 11.18 | 16.15 |
| August | 14.99 | 16.25 | 14.21 | 16.52 | 16.38 | 13.40 | 16.96 |
| September | 15.10 | 18.32 | 14.66 | 19.81 | 18.71 | 15.07 | 19.28 |
| October | 16.04 | 18.06 | 16.05 | 18.13 | 18.19 | 15.29 | 18.67 |
| November | 16.84 | 16.82 | 16.90 | 14.87 | 15.71 | 15.40 | 16.39 |
| December | 17.34 | 17.44 | 17.51 | 13.48 | 13.39 | 16.34 | 13.98 |
| Average | 14.20 | 15.08 | 13.84 | 14.85 | 14.79 | 13.84 | 15.42 |
| 60-Month Avg | 12.70 | 12.90 | 12.23 | 12.24 | 12.20 | 12.83 | 12.84 |

*Developed for informational purposes only. Advanced skim milk and butterfat prices will be used to calculate Class I price for succeeding month.

BILLING CODE 3410–02–M

### 3. Class I Pricing Structure

This decision adopts a Class I pricing structure that provides incentives for greater structural efficiencies in the assembly and shipment of milk and dairy products. In conjunction with other reforms discussed in this decision, the adopted Class I price structure provides the necessary changes needed to improve milk pricing in the consolidated markets. The adopted Class I pricing structure results from additional quantitative and qualitative analyses of Option 1A and Option 1B that were presented in the proposed rule issued January 21, 1998 (the PR), consideration of public comments received to these options, and the legislative requirements of the AMAA. The adopted Class I pricing structure utilizes USDSS model results adjusted for all known plant locations and establishes differential levels that will generate sufficient revenue to assure an adequate supply of milk while maintaining equity among handlers in the minimum prices they pay for milk bought from dairy farmers.

*Background*

Although not required by the 1996 Farm Bill, the legislation provided authorization for the Secretary to review the Class I price structure as part of the consolidation of the orders including the consideration of utilization rates and multiple basing points for developing a pricing system. In any event, the consolidation of orders requires the review of the pricing system because historically, Class I pricing provisions, as well as other Federal order provisions, have been reviewed primarily on an individual market basis. The reform effort provides the opportunity to consider and establish a nationally coordinated Class I pricing surface that uses location adjustments to the differential levels to price milk for fluid use in every county in the United States.

The PR provided an extensive review of 7 options that were developed and considered. After qualitative and/or quantitative analysis, all but Option 1A and Option 1B were preliminarily eliminated for various stated reasons. Nonetheless, the PR invited comments on any of the seven pricing options or any other pricing ideas. Also, the Department indicated a preference for Option 1B for a number of reasons. Nearly all of the public comments received in response to the PR on Class I price structure focused on the relative merits of Option 1A and Option 1B. No persuasive comments were received to cause the Department to further consider the other five options.

*The USDSS Model*

Option 1A and Option 1B were based to a significant degree on the U.S. Dairy Sector Simulator Model (USDSS). The USDSS was used to evaluate the geographic or ''spatial'' value of milk and milk components across the U.S. Using 240 supply locations, 334 consumption locations, 622 dairy processing plant locations, 5 product groups, 2 milk components (fat and solids-not-fat) and transportation and distribution costs among all locations, USDSS determines economic efficient location values for milk and milk components. The model initially used data from May and October 1995, and for this decision used updated data from May and October 1997.

The supply and consumption of milk used by the model are aggregated to geographic points—consumption points and supply points—to simplify a very complex problem. The production of milk and the consumption of dairy products are *fixed* at the various supply and consumption points used by the model. Plant locations were restricted to those presently processing products but plant processing locations were not constrained with respect to the volume processed. Processing costs were assumed to be uniform between locations and across plant volumes (no economies of scale). Therefore, the model allowed processing to move among available locations to find the least cost solution in terms of assembly from supply points through distribution to consumption points.

Transportation costs in the model include costs of raw milk assembly, interplant bulk shipment, and the cost of hauling finished products. Transportation costs among regions reflected not only distance traveled, but also differences in wage rates and State highway weight limit restrictions. While assembly costs and interplant bulk shipments were calculated using a linear cost function, the finished product functions were non-linear. In fact, finished product hauling costs (e.g., packaged milk) fell below raw milk assembly and hauling costs on an equivalent unit basis in many cases at distances more than 900 miles. Previous spatial modeling had assumed constantly higher finished product transportation costs versus raw milk assembly and shipping costs for all distances. The updated model results were based on transportation cost analyses, particularly the reduction in distribution costs for finished products resulting in distribution costs for these products on par with bulk milk assembly and hauling costs.

The output from the USDSS model provided information as to optimal processing locations and volumes at those locations, milk assembly, and intermediate and finished product distribution flows. It represented a least cost, or ''most efficient'' organization of the industry. Importantly for the research, the model provided the marginal values (i.e., the value of one more unit) of milk at each location. These values, technically known as shadow prices, are indicative of values that are consistent with the optimized solution. A shadow price on one unit of milk at any processing location can be interpreted as follows: If the processor at a particular location had one more unit of milk, the entire pattern of milk assembly, and product transportation could be reorganized in such a way that marketing costs, equal to the shadow price, could be saved. This notion of marginal value is consistent with economic theory on how prices are determined in a competitive market.

The significance of the shadow value in terms of milk price regulation may be stated: If the regulated price, or cost of milk, is arbitrarily set higher than the shadow price at a particular processing location, a lower cost solution could be found by processing more milk at another location. This would imply higher transportation costs for either raw milk assembly, finished product distribution, or both. Such a result clearly leads to a higher cost, less efficient system. It is also contrary to what is generally thought of as the ''orderly marketing'' of milk which is a fundamental reason for the existence and goal of Federal milk marketing orders.

It should be stressed that the calculated shadow prices of the model output provide information regarding the relationship of the prices among geographic locations. They do not provide guidance regarding the overall level of Class I prices or differential values. That is, the model does not help us understand whether the Class I differential should arrive at a Class I price of $14 in Minneapolis and $15 in New York City, or $15 in Minneapolis and $16 in New York City. However, it does tell us that the resulting Class I price difference between the two locations should be about one dollar.

A positive aspect of the USDSS model is the degree of detail available in the output. This detail is achieved through the careful assembly of spatially disaggregated data. However, it should be remembered that by its construction, the USDSS is a ''model'' and thus a simplification of a complex dairy industry. That notwithstanding, the USDSS model does provide an objective and quantitative guidepost from which to compare current federal order differentials and in considering possible alternatives.

Several factors were considered in selecting a replacement for the current [14] Class I price structure that served to form the criteria used to examine options. First, a Class I price structure must be considered from a national, as well as a local or regional, perspective. Many comments from industry addressed Class I pricing issues from a local or regional perspective in the development of options presented in the PR. These comments provided valuable information about particular markets but generally did not consider the feasibility or impact of a local or regional issue on a national basis. While remaining mindful of local and regional concerns, USDA has also evaluated alternative Class I pricing structures from a national perspective, as should be expected, given the national concerns expressed about milk pricing.

Second, a Class I price structure must recognize the location value of milk. Results from the USDSS model confirm that milk has value at location. As described earlier, the model provided shadow prices reflecting the relative values of milk and milk components at geographic locations. While the model shadow prices did not suggest Class I differentials for specific locations, they do provide a means to evaluate price relationships among locations.

Third, a Class I price structure must recognize all uses of milk. The classified pricing system contained in the Federal milk order program values milk for fluid use higher than milk used for soft or hard manufactured products. The higher Class I price encourages all milk to be used first to satisfy Class I needs. At the point where the cost of moving milk from an alternate location for Class I use is equal to the cost to supply milk for manufactured products, demand for manufactured products influences a market's ability to procure milk for Class I needs. Thus, all uses of milk must be considered when evaluating a national Class I pricing structure.

Finally, a Class I price structure must meet the requirements of the AMAA. The broad tenet of the AMAA is to establish and maintain orderly marketing conditions. For the Federal milk order program, this is achieved primarily through classified pricing and pooling. With regard to pricing, it is recognized that the objective of the AMAA is to stabilize the marketplace with minimum prices, not to set market prices. The pricing criterion of the AMAA, section 608c(18), requires prices that are reflective of economic conditions affecting supply and demand for milk and its products. In this regard, consideration was given to whether the proposed prices would generate sufficient revenue for producers necessary to maintain an adequate supply of milk. Equally important, the prices need to provide equity to handlers with regard to raw product costs as required by section 608c(5) of the AMAA.

*Evaluation Criteria*

In evaluating the final Class I pricing options, nine performance criteria, based upon regulatory objectives and requirements of the AMAA, were again used as they were in the PR. The evaluation criteria are divided into two categories, objective and administrative. The objective criteria are as follows:

*1. Ensure an adequate supply of milk for fluid use.* Class I price levels need to provide a sufficient price signal to maintain an adequate supply of milk for fluid use. This supply level can be achieved through either the movement of milk to where it is needed, increased production, or some combination of both.

*2. Recognize quality (Grade A) value of milk.* Grade A milk is required for fluid use. Additional costs of obtaining and maintaining Grade A status need to be reflected in Class I prices.

*3. Provide appropriate market signals.* A Class I price should send timely signals to the market regarding supply/demand conditions.

*4. Recognize value of milk at location.* Basic economic theory, validated by actual market observations and University-based research, affirms that milk for Class I use has a different value at different locations. This value needs to be reflected in the Class I price in order for the system to recognize and resemble the market rather than interfere with the market.

*5. Facilitate orderly marketing with coordinated system of prices.* A system of Class I prices needs to be coordinated on a national level. Appropriate levels of prices will provide alignment both within and among marketing areas. This coordination is necessary for the efficient and orderly marketing of milk.

*6. Recognize handler equity with regard to raw product costs.* Appropriate levels of Class I prices provide known and visible prices at all locations thereby ensuring that handlers

[14] Any references to the ''current'' system of Class I prices or the ''current'' price structure are to be interpreted as those established in or after the final decision based on the 1990 national hearing issued March 5, 1993 (58 FR 12634).

are able to compete for available milk supplies on an equitable basis.

Three administrative criteria are identified and described as follows:

*1. Minimize regulatory burden.* The Class I price structure should not significantly increase the burden on handlers, particularly small businesses. This would include increased reporting requirements and record keeping, as well as possible increases in administrative assessments should Market Administrators be required to manage a more complex regulatory system.

*2. Minimize impact on small businesses.* The Class I price should be set at a level that does not disadvantage small businesses in competition with large businesses.

*3. Provide long-term viability.* The Class I price structure should be expected to operate for an extended time period without major modifications.

The nine evaluation criteria listed above are used to qualitatively evaluate each of the options. Each option is evaluated based on how the option performed compared to the current system, either better than, worse than, or the same as, for each performance criterion. The results of the qualitative analysis provided a preliminary framework for quantitative analysis using a multi-regional model developed by the Economic Research Service (ERS) of the Department.

As previously indicated, Option 2—Relative Use Differentials, Option 3A—Flat Differentials, Option 3B—Modified Flat Differentials, Option 4—Demand-Based Differentials, and Option 5—Decoupled Baseline Class I Prices with Adjustors, were eliminated from further consideration. They were eliminated for various reasons including failure to adhere to AMAA requirements, the likelihood of creating disorderly marketing conditions, and impacts on small businesses. A discussion of the five eliminated options, including the evaluation against the criteria and/or quantitative analysis were described in detail in the PR.

*The Final Options*

Three options formed the basis for final consideration and are described below. All options present national Class I pricing structures developed utilizing the USDSS model. The options continue to vary in their reliance and application of the USDSS model but all remain based on economic principles contained within the model. These options include Option 1A, a modified Option 1B, and the adopted Class I pricing structure.

Option 1A: Location-Specific Differentials

Option 1A establishes a $1.60 per hundredweight fixed differential for three surplus zones (Upper Midwest, West, and Southwest) within a nine-zone national price surface, and for the other six zones, an added component that reflects regional differences in the value of fluid and manufacturing milk. This option emphasized current supply and demand conditions with the USDSS model output.

Some minor changes were made to the Option 1A differential levels presented in the PR. The changes only involved adjusting certain county specific differentials to provide for more appropriate price alignment in several counties in the northeast, seven counties in Florida, and one county in North Carolina. Other than these minor changes, Option 1A is the same as published in the PR.

Modified Option 1B: Relative Value-Specific Differentials

This option continues to establish Class I differentials based on a relationship between prices and geographic location as indicated by the USDSS model, but uses more current data. Modifications were made to Option 1B with respect to how adjusted Class I differentials were established for each county in the United States. This modified version of Option 1B continues to establish differential levels by setting and equating the relative value-specific differential of $1.20 per hundredweight in Minneapolis, Minnesota. The Option 1B differentials in the PR relied on an algorithm to set location adjusted differentials in every county. The modified Option 1B price surface takes into full account all known plant locations as was done in the development of Option 1A. This approach ensures that all plants similarly located would have similar prices.

*The Adopted Class I Price Structure*

The adopted Class I pricing structure establishes a price surface that also utilizes USDSS model results adjusted for all known plant locations and establishes differential levels that will result in prices that generate sufficient revenue to assure an adequate supply of milk. The differential levels will better maintain equity by raising the level 40 cents per hundredweight higher than the level proposed in Option 1B and in modified Option 1B. The higher differential level reduces the likelihood of class-price inversions, where the Class I prices are below the manufacturing milk prices for the month.

*The USDA Multi-Regional Dairy Sector Model*

Option 1A, modified Option 1B and the adopted Class I pricing structure were evaluated qualitatively against the evaluation criteria and quantitatively utilizing the USDA multi-regional dairy sector model. This model was developed to answer some very specific questions about possible changes in the dairy sector, particularly changes being considered in milk marketing orders. The main focus of the model's development and use was to quantitatively examine the impacts of the changes under consideration in the classified pricing of milk and dairy products in the milk order system on an order-by-order and regional basis, and for other areas of the country not currently a part of the milk order system.

The multi-regional model establishes a baseline consistent with the USDA official baseline projections for the dairy sector. It assumes 36 regions. These include: 32 Federal Milk Marketing Order areas (including Tennessee Valley that was terminated on October 1, 1997) and four non-Federally regulated areas (California, Other Unregulated Western Counties, Unregulated Northern New York and New England and Other Unregulated Eastern Counties) and projects baseline information through the year 2005. The demarcation between the unregulated Western and Eastern counties follows a line extending north to south on the eastern State borders of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

The model baseline also assumes that the Class III price would be the Basic Formula Price (BFP), the Class II price would be the BFP plus 30 cents, each region's Class I price would be the BFP plus the current Class I differential and the Class III-a price would continue. All other changes to milk order provisions together with the three price surface alternatives are presented as changes from the baseline over the period of the years 2000 through 2005. Each of the alternatives include the impact of consolidation into 11 regional markets and moving to wholesale product price formulas in setting the class prices.

From its baseline, the model has the ability to quantify the impacts of pricing changes in the consolidated regions and in estimating how the end use of milk may be expected to change with the changes in how the order program will price milk. The model can generate long-term supply, demand, and price

projections that are consistent with the USDA official baseline projections.

The model estimates regional milk production based estimates of milk-per-cow and number-of-cows for the 36 defined areas. The milk cow inventory and milk-per-cow estimates for each area is based upon reported state data. Changes in the inventory of cow numbers and output-per-cow for each region are related to regional farm milk prices and feed costs, and past regional net returns to dairy farmers (a measure of profitability). Milk marketings in the region are in direct relationship to milk production in the region.

Once the volume of regional milk marketings is determined, marketings are distributed to seven uses: bottled whole milk, bottled low-fat milk, soft manufactured dairy products, American cheese, other cheese, butter, and nonfat dry milk. Each of the seven uses has a retail demand equation. Generally, the demand for the specific product is a function of per capita income, the retail price or the Consumer Price Index (CPI) of the product, and the price or CPI of a substitute product (e.g. margarine for butter).

Demands for raw milk for use in fluid milk products and soft manufactured dairy products have priority in the model and such demands are filled regionally from the region's raw milk supply before the national demands of the hard manufactured product markets are met. The Class I and Class II uses of milk in each region are based upon differences in prices and population by region. A CPI for fluid milk and other dairy products are estimated for each region based upon a margin mark-up equation and the region's Class I and Class II prices. These values are used to estimate regional per capita use, and when multiplied by projected population for each region, determine the amount of milk allocated to Class I and Class II uses.

The sum of each region's raw milk supply less the milk used in Class I and Class II results in a measure of the national manufacturing milk supply. The model solves for equilibrium in supply and demand by solving for wholesale prices of cheese, butter, and nonfat dry milk that equate the supply and demand in the hard manufactured dairy product markets. The hard manufactured product markets, the Class I markets, the Class II markets, and the farm level raw milk supply are linked through price equations that relate the changes in wholesale product prices to changes in prices for milk used in Class I, Class II, Class III, Class III-a (or Class IV) and the farm level all-milk price.

A Class III and Class III-a (or Class IV) price is calculated from the model's estimates of wholesale cheese, butter, and nonfat dry milk prices; and these Class III and Class III-a (or Class IV) prices are used to predict Class I and Class II prices. Changes in Class I and Class II prices affect demand for Class I and Class II products and the amount of milk available nationally for cheese, butter, and nonfat dry milk production. Likewise, the amount of milk used in each class in each region and the regional class prices affect the farm level all-milk price and the supply of raw milk in the region and therefore the amount of milk available nationally for cheese, butter, and nonfat dry milk production. The model iterates until an equilibrium is achieved for the year in the wholesale product markets and then advances to the next year.

A brief summary of the quantitative impacts of each alternative price surface is included with the qualitative analysis presented below. A detailed description of the USDA multi-regional dairy model, as well as a complete discussion of the impacts of the pricing alternatives are contained in the Final RIA.

Option 1A: Location-Specific Differentials

Option 1A would establish a nationally coordinated system of location-specific Class I differentials reflecting the relative economic value of milk by location. An important feature of the option is the location adjustments that geographically align minimum Class I milk prices paid by fluid milk processors nationwide regardless of the defined milk marketing area boundaries or order pooling provisions. A basic premise of Option 1A is that the value of milk varies according to location across the United States.

Compared to the modified Option 1B and the adopted Class I price structure, this option tends to most reflect the current Class I pricing surface. Although extremely similar to the current Class I price surface, there are distinct differences. Option 1A would establish a nationally coordinated price surface that uses location adjustments to adjust the price of milk for fluid use for every county of the United States.

Under Option 1A, Class I differentials are the lowest in geographical areas evidencing the largest supplies of milk relative to local/regional fluid milk needs. The differentials become progressively higher as they move from these areas to markets with less production relative to demand for fluid milk. Nine differential zones provide the basis for establishing the price structure. These zones were established based on results of the USDSS model, knowledge of current supply and demand conditions, and recognition of other marketing conditions such as fluid versus manufacturing markets, urban versus rural areas, and surplus versus deficit markets.

Class I differentials under this option range from a low of $1.60 per hundredweight in the lowest valued zones of the Upper Midwest, Southwest, and West, where there are abundant supplies of milk in excess of fluid milk use, to a high of $4.30 per hundredweight in Florida, where there are deficit supplies of milk for fluid use.

*Analysis Based on Evaluation Criteria.* Option 1A performs equal to or better than the current Class I system in each of the evaluation criteria. This is largely explained by the adjustments, improvements, and fine-tuning made to the current system of Class I differentials Option 1A was evaluated against the objective criteria as follows:

*1. Ensure an adequate supply of milk for fluid use.* Option 1A performs essentially the same as the current price structure in ensuring an adequate supply of milk for fluid use. Option 1A changes current differential levels in some regions to more accurately reflect current milk supply-demand conditions. Option 1A will have minimal impacts on farm level milk prices and should ensure adequate supplies of milk for fluid use.

*2. Recognize quality (Grade A) value of milk.* Option 1A recognizes the quality value (Grade A) of milk through the addition of a differential that begins at $1.60 per hundredweight in the base zone.

*3. Provide appropriate market signals.* Option 1A adjusts and refines the existing Class I price structure to provide appropriate market signals. In some geographical areas, Class I differentials would be increased. These changes indicate that current Class I differential levels are not high enough to attract adequate supplies of milk to the applicable fluid milk markets. In certain other areas, Class I differentials would be lowered, indicating that they exceed levels necessary to adequately supply the associated markets with their fluid milk needs.

*4. Recognize value of milk at location.* The spatial values of milk reflected in Option 1A recognize the value of milk at location more accurately than the current system for two principal considerations. First, in structuring the differentials in Option 1A, the effect of current Class I differential levels on milk supplies, demand, and dairy farmer returns regionally during the past decade were considered. Second, the

relative values of milk and milk components at geographic locations throughout the United States from the USDSS model results were considered.

*5. Facilitate orderly marketing with coordinated system of prices.* Option 1A provides a comprehensive national pricing surface for Class I milk that establishes a value for Class I milk in every county. Thus the price any processor would pay for milk would be the same regardless of which order the processor is regulated under. As such, Option 1A is an improvement over the current price structure which evolved in a piecemeal fashion. Additionally, the Class I differentials and location adjustments in Option 1A would facilitate more efficient and orderly marketing of milk for fluid use through the nationwide coordination of prices when compared to the current system.

*6. Recognize handler equity with regard to raw product costs.* Class I differentials proposed under Option 1A are consistent with the inherent economic value of milk at location. The coordination and alignment of prices, based upon cost differences and current marketing conditions, better ensures handlers of equity in competing for available milk supplies.

Option 1A was evaluated against the objective criteria as follows:

*1. Minimize regulatory burden.* Option 1A would not change the regulatory burden of the Federal order program. Option 1A would not result in increased reporting, record keeping, compliance, or administrative costs to handlers.

*2. Minimize impact on small businesses.* In regions where more of the actual value of fluid milk would be reflected in the differentials than is currently reflected, small businesses may have a marginal improvement in their relative competitive bargaining position vis-a-vis large businesses. This is based on the concept that large businesses (producers, cooperatives or handlers) are better able to negotiate premiums above minimum order prices due to advantages attained from their size. Overall, this option is not expected to materially impact small businesses differently than the current price structure.

*3. Provide long-term viability.* To the extent the location adjusted Class I differentials under Option 1A will correct instances of price misalignment and more accurately reflect the economic value of milk by location, the long-term viability of Option 1A is expected to exceed that of the current price structure.

Because the USDSS model only determines the relative value differences for fluid milk between location, it could not be used for determining an appropriate differential level. Option 1A utilizes $1.60 per hundredweight as the minimum differential level. A complete explanation of the factors that developed and explain this differential level was set forth in the PR. In summary of those reasons, the $1.60 per hundredweight differential level is used in Option 1A because it would ensure a sufficient supply of milk for fluid uses in the most surplus regions.

Option 1A will have little impact on small businesses, either producers and processors. In certain situations, it may improve a small business' competitive marketing position as compared to current levels. Because the $1.60 base zone differential includes a competitive factor as discussed previously, more of the actual value of fluid milk will be reflected in the minimum Federal order price. This may decrease the level of the over-order value that must be negotiated between processors and producers. Doing this would provide small businesses with a more equitable competitive position.

Quantitative analysis of Option 1A using the USDA multi-regional model evaluated the various impacts of this pricing option. Overall, the magnitude of price and income changes under Option 1A is relatively small when compared to the baseline. Option 1A results in an 8-cent increase in the average Class I price for all current Federal orders. Further details of the impact of these Class I price changes, and others, that are based on the USDA model results are available in the final Regulatory Impact Analysis (RIA).

Modified Option 1B—Relative Value-Specific Differentials

Modified Option 1B would also establish a nationally coordinated system of Class I differentials and adjustments that recognizes several low pricing areas. Modified Option 1B more directly applies the USDSS model's optimal solution in developing the Class I price structure.

The modified Option 1B differentials differ from those published in the PR. The differences are explained largely by a more complete consideration of all known plant locations. The Option 1B differential values published in the PR relied on an algorithm to establish differential levels for those counties that were not part of the optimal solution. However, all plant locations need to be considered for setting prices at these locations and prices must be aligned between locations. This has been done in modified Option 1B and results in a ''zoned'' structure of relative price differences that are aligned.

*Modified 1B Differential Level*

As pointed out in the Option 1A discussion, the USDSS model only provided information regarding relative differences in prices between geographic locations and offers no information for determining the level of Class I differentials used in setting Class I prices. The same is true for modified Option 1B. Modified Option 1B relies much more directly on the geographic price relationship results of the USDSS model in defining the structure and relative differences represented in its differential schedule for all locations.

While modified Option 1A establishes a $1.70 Class I differential at Minneapolis, adjusted from a minimum level of $1.60 (the lowest differential level at any location in Option 1A), modified Option 1B sets a Class I differential at Minneapolis at the current level of $1.20 per hundredweight. It is important to note that any modified Option 1B zone could be discussed as the ''starting'' point differential. This decision only refers to and references Minneapolis at the $1.20 level for illustrative purposes since it provides a degree of continuity in how Option 1B was presented and discussed in the PR.

Because Option 1B was expected to result in a significant change to the industry in both the pricing surface and the level of Class I differentials, it was proposed in the PR in conjunction with three alternative transitional phase-in programs. However, none of the phase-in programs received public support.

The final RIA statement provides the full measure of the USDA multi-regional model analysis of this option. In short, modified Option 1B is rejected because the differential levels it would set would result in minimum prices that would not generate sufficient revenue to assure an adequate milk supply. Additionally, for markets with lower differential levels, there is a greater potential for class-price inversions that would increase the likelihood of disorderly marketing conditions.

*The Adopted Class I Price Structure*

The adopted Class I pricing structure results from additional quantitative and qualitative analyses of Option 1A and Option 1B, consideration of public comments received to these options, and the legislative requirements of the AMAA. The adopted Class I pricing structure utilizes USDSS model results adjusted for all known plant locations and establishes differential levels that will generate sufficient revenue to

assure an adequate supply of milk and better maintain equity among handlers by raising the level 40 cents per hundredweight higher than the level used in modified Option 1B.

The Class I differential level was set by determining the differential level that results in prices which will generate sufficient revenue to bring forth an adequate supply of milk throughout the Federal order system. As in both Option 1A and modified Option 1B, the adopted Class I pricing structure adds a differential value to the basic formula price in setting Class I milk prices. Additionally, it is set at a level that minimizes the likelihood of class-price inversions, discussed in the BFP section of this decision. The $1.60 Class I differential level (at Minneapolis) achieves these objectives for a nationally coordinated Class I pricing structure.

Increasing the differential level by 40 cents per hundredweight at all locations does diminish the reliance on the marketplace and over-order premiums in establishing market prices inherent in modified Option 1B. However, the adopted Class I pricing structure retains the more efficient pricing structure that offers increased cost savings in the organization of the nation's milk supply and in the transportation of milk and dairy products.

The adopted Class I pricing structure moves the dairy industry into a better organized and aligned pricing system while continuing to assure orderly marketing conditions for producers and handlers. Restructuring the relative-value differential relationships at the level specified will, among other things, generate sufficient revenue in the national system of Federal orders to bring forth an adequate supply of milk. The higher level will also minimize instances of class-price inversions. The location adjusted differentials established for each county are set forth in the Class I Price Structure Maps, and in the General Provisions § 1000.52. The following table sets forth the location adjusted differentials at selected cities.

COMPARATIVE CLASS I DIFFERENTIALS AT SELECTED CITIES UNDER THE ADOPTED CLASS I PRICE STRUCTURE

[Dollars per hundredweight]

| City | Current | Adopted | Difference |
|---|---|---|---|
| New York City, NY | 3.14 | 2.50 | (0.64) |
| Charlotte, NC | 3.08 | 2.55 | (0.53) |
| Atlanta, GA | 3.08 | 2.90 | (0.18) |
| Tampa, FL | 3.88 | 4.20 | 0.32 |
| Cleveland, OH | 2.00 | 2.00 | 0.00 |
| Kansas City, MO | 1.92 | 1.90 | (0.02) |
| Minneapolis, MN | 1.20 | 1.60 | 0.40 |
| Chicago, IL | 1.40 | 1.95 | 0.55 |
| Dallas, TX | 3.16 | 2.10 | (1.06) |
| Salt Lake City, UT | 1.90 | 1.50 | (0.40) |
| Phoenix, AZ | 2.52 | 1.55 | (0.97) |
| Seattle, WA | 1.90 | 1.45 | (0.45) |

The adopted Class I pricing structure was evaluated against the objective criteria as follows:

*1. Ensure an adequate supply of milk for fluid use.* The adopted Class I pricing structure establishes lower differentials than current levels in many of the proposed markets. Because the differential level is higher than under modified Option 1B, the adopted Class I pricing structure relies less on the use of over-order premiums as the method to attract adequate milk supplies for fluid purposes. While over-order premiums will remain useful for allowing the market to find the final value of Class I milk, the higher-level differentials of the adopted Class I pricing structure will better serve to ensure that the minimum prices set by the orders will attract an adequate supply of milk for fluid use.

*2. Recognize quality (Grade A) value of milk.* As with Option 1A and modified Option 1B, the adopted Class I pricing structure similarly recognizes the quality (Grade A) value of milk through the use of a differential added to the basic formula price.

*3. Provide appropriate market signals.* The adopted Class I pricing structure provides appropriate market signals in all markets even though the adopted Class I pricing structure lowers differentials in some markets. Over-order pricing will likely function in most, if not all markets, even with the higher-level differentials. However, the higher differential level better ensures that the minimum prices established under the orders will generate a sufficient supply of milk and better ensures equitable minimum prices among regulated handlers than does modified Option 1B. Additionally, because class-price inversions are mitigated, more appropriate price signals are provided to the marketplace.

*4. Recognize value of milk at location.* The adopted Class I pricing structure appropriately recognizes the value of milk at location. It is based on the location value of milk as determined by the May 1997 results of the USDSS model. It also aligns the relative-value differences while adhering to spatial-value differences determined by the model giving full consideration to all plant locations. Thus, in utilizing the model results that determine the most efficient spatial value of milk for fluid use to establish the price surface, the adopted Class I pricing structure should perform better than the current system.

*5. Facilitate orderly marketing with coordinated system of prices.* The adopted Class I pricing structure establishes a coordinated system of differentials with appropriate location adjustments. Like the other two options, a comprehensive national pricing surface has been developed that establishes a value for Class I milk in every county. As a result, a processor's regulated price will be the same regardless of the order regulating it.

*6. Recognize handler equity with regard to raw product costs.* With the 40-cent per hundredweight increase in the differential level, processor equity is better maintained under the adopted Class I pricing structure. With price increases or decreases in some areas, the markets will need to adapt to the new pricing structure. While it is not the intent of the Federal order system to set market prices, the reflection of a larger portion of the price under regulation provided by the adopted Class I pricing structure, better assures handlers a reasonable degree of equity with regard to raw product costs.

The adopted Class I pricing structure was evaluated against the administrative criteria as follows:

*1. Minimize regulatory burden.* The adopted Class I pricing structure would not change the regulatory burden of the Federal order program in terms of reporting, recordkeeping, compliance, and administrative costs to handlers.

*2. Minimize impact on small businesses.* Under the adopted Class I pricing structure, a fuller measure of the Class I value needed to attract adequate milk supplies will come from regulated prices. Reliance on over-order payments negotiated outside the Federal order system is diminished, but continues to be recognized as in either the current system or in Option 1A. As a result, it is likely that small handlers who might have been disadvantaged by the original Option 1B will not be under this modified version.

Federal order Class I prices are mandatory and affect processors in a specific area equally as minimum enforced price levels. Since more of the actual value of Class I milk is represented in regulated prices, the potential for large handlers to have an advantage over small handlers is mitigated in competing for a supply of milk under the adopted Class I pricing structure. Large processors often have advantages related to economies of scale and may be able to temporarily inflate over-order prices they are willing to pay until they have forced smaller businesses out of business who could not afford to pay higher prices.

Additionally, with higher differentials and resulting higher producer blend prices, the balance of market power between producers and processors is better maintained. Producers will not need to negotiate with processors to obtain a better price for their milk to the extent that would have been expected under modified Option 1B. Small dairy farmers have less production volume, and typically have higher per hundredweight production costs. Hence, small producers who are less able to negotiate for prices that may be higher than the Federal order minimum price will be better served under the adopted Class I pricing structure. When too much reliance is placed on the use of over-order premiums (as in modified Option 1B), it is likely that dairy farmers defined as small businesses would benefit less from the regulation of milk marketing.

Small businesses may be impacted under the adopted Class I pricing structure as adjustments are made in response to the new pricing structure. However, to the extent that small producers may not be able to bargain with processors for over-order premiums to adequately cover their costs, the increased differential level in the adopted Class I pricing structure minimizes this potential outcome. The inability of small processors to compete with large processors at price levels above Federal order minimums is similarly eased.

*3. Provide long-term viability.* The adopted Class I pricing structure provides for a more efficient pricing structure. This option is an alternative from the current way the Federal order program has approached Class I pricing. Historically the Class I price established under Federal orders represented the minimum value of Class I milk in the marketplace based on the cost of maintaining Grade A milk and associated marketing costs together with the cost of alternative milk supplies. The adopted Class I pricing structure provides the opportunity for increased marketing efficiencies by promoting a more optimal organization in the assembly and distribution of milk products while establishing prices that will assure an adequate milk supply. In this way, it is expected to have long-term viability.

Quantitative analysis of the adopted Class I pricing structure using the USDA multi-regional model evaluated the various impacts of this pricing option. The evaluation assumed the eleven market order consolidation, four classes of milk use, and the BFP replacement presented earlier in this decision. Class I differentials are reduced from current levels in about half of the marketing orders. The reductions range from 4 cents per hundredweight in the Ohio Valley order to as much as $1.18 per hundredweight in the Eastern Colorado order. The Class I differential for the Eastern Ohio-Western Pennsylvania order would be unchanged. For the other markets, the Class I differential is increased, ranging from 8 cents per hundredweight in the Greater Kansas City order, to 57 cents in the Southeastern Florida order.

Under the adopted Class I pricing structure, six current milk orders would have Class I differentials lower than the differential established at Minneapolis. This gives explicit recognition that these other areas have adequate milk supplies to satisfy Class I demands at lower costs. For areas needing supplemental supplies of milk for fluid use, the Class I differentials are reflective of transportation costs from the closest alternative supply area.

According to the USDA model analysis, the adopted Class I pricing structure differential level would increase order marketings over the six-year analytical period of the years 2000–2005 when compared to the baseline. Raising the differential, in conjunction with shortening the advance pricing notice of Class I prices by 18 days as discussed in the BFP section of this decision, minimizes class-price inversions. The rise in the all-milk price in the first year of implementation is expected to stimulate additional milk production in the milk order system. This additional milk production results primarily from Class I prices being established by using the expected higher Class IV prices in the year 2000. Over the six-year analytical period, the annual all-milk price is expected to drop by about two cents per hundredweight, but the annual average of marketings in the entire milk order system is expected to increase by about 8.3 million pounds when compared to the baseline. This increase in marketings is largely explained by the pooling of milk that was not pooled in recent years because of class-price inversions.

The USDA analytical model suggests that annual cash receipts, or revenue, for producers under the adopted Class I pricing structure will increase in many markets when compared to the baseline. The marketing areas expected to have the largest average annual increases in producer revenue include the following orders: Chicago Regional—$43.1 million, New York-New Jersey—$18.7 million, Iowa—$17.5 million, Southern Michigan—$14.1 million, and Tampa Bay—$12.2 million. Other markets would be expected to have lower estimated annual cash receipts over a six-year analytical period of the years 2000–2005 from the baseline. The marketing orders with the largest reductions include: Texas (−$39.7 million), Middle Atlantic (−$39.5 million), Eastern Colorado (−$11.4 million), Southwest Plains (−$11.3 million) and Central Arizona (−$10.4 million).

The USDA analytical model suggests that as the adopted Class I pricing structure results in lower Class I prices in many markets, the average annual impact on retail prices to the consumer for fluid milk will be about 2 cents per gallon less, on average, over the six-year period of the years 2000–2005 when compared to the baseline. From a national perspective, this translates into consumer savings of about $79 million for fluid milk products annually. Sales of manufactured dairy products over the same time period are expected to decrease somewhat, but expenditures for these products will be higher.

While only summarized here, the complete USDA multi-regional model analysis of Options 1A, modified Option 1B and the adopted Class I pricing

structure are included in the final RIA statement.

*Comparison of Option 1A and the Adopted Class I Price Structure*

Option 1A and the adopted Class I pricing structure have similarities but rely on differing methods in constructing a nationally coordinated Class I price structure. Both recognize that milk has a location value. Both utilized the USDSS model results to establish the price surface. Both establish Class I prices by adding a fixed differential to the implied value of milk used in manufacturing. Both establish a price surface that assigns a price to every county in the United States and would assure that a price at any particular location will not vary depending upon the marketing order under which the milk is pooled.

Although similar in the above respects, they also differ. First, they differ in the method of determining the level of the Class I differential. Option 1A relies on finding that Class I differentials would be established at a level that more fully reflects the additional value of Class I milk in the most surplus regions. The adopted Class I pricing structure relies on the finding that the national system of milk order needs to result in prices that will generate sufficient revenue to bring forth an adequate milk supply.

Secondly, they differ in how the price surface should be established regardless of the level. Option 1A provides for the alignment of resulting Class I prices by evaluating the cost of alternative supplies based upon the current Class I differential structure. This results in a surface that is smoother and flows primarily from north to south and west to east. However, the adopted Class I pricing structure relies on a cost minimization model to provide for a more efficient organization and structure in milk supply and distribution. Thus, it results in more limited relative price differences and in a price surface that is flatter.

Thirdly, they differ in their reliance on the USDSS model results. Option 1A recognizes the value associated with the model results but relies on knowledge of specific marketing conditions and practices to make adjustments to existing differentials. The adopted Class I pricing structure, on the other hand, relies more directly on the USDSS model results that indicate the optimal spatial values for fluid milk which serve to promote market efficiencies, and implements this structure to encourage market efficiency within the dairy industry.

*Public Comments*

The majority of comments received in response to the PR dealt with the Class I price structure. In all, 4,217 comments were received on this issue. Of this number, 3,579 comments indicated support for the adoption of Option 1A and 436 comments supported the adoption of Option 1B. Some support USDA of both Class I pricing options called for changes in each of the Option's details. No comments were received that supported any sort of transition programs suggested in adopting Option 1B. Some comments, while supporting Option 1B in its general theme, proposed adopting Option 1A initially and phasing in the adoption of Option 1B over an extended time period.

It is clear from the comments received that there is broad-based support for adopting Option 1A. These commenters explained what they thought were and should be the most important goals of the milk marketing order program, the pricing policies and features that it should contain to achieve these goals, and their view of the legislative requirements that must be incorporated into milk orders. Such was similarly expressed in explaining both the support for, and opposition to, Option 1B.

Supporters for Option 1A generally saw it as the best Class I pricing option that would properly reflect the fullest measure of the AMAA's articulated goals and requirements. These supporters expressed the limitations of relying too much on the free market in setting milk prices. For example, supporters of Option 1A indicated that milk marketing orders exist because dairy farmers are at a distinct disadvantage in their marketing relationship with handlers who buy their milk. They cited the characteristics of milk—that it is highly perishable, bulky, is produced daily and must be marketed nearly as often, and is expensive to transport—as making it a unique commodity. Unlike other commodities, grains for example, milk cannot be withheld from the market in the hope for a better price, nor can it be shipped long distances in search of a higher price because transportation costs quickly erode the benefits of a higher price. Dairy farmers don't even know the price they will receive for their milk in advance of having to ship to market, they noted.

Also, supporters of Option 1A were of the opinion that marketing conditions faced by dairy farmers today are fundamentally no different than they were when the order program first began. They point out that even though there are fewer and larger dairy farms with greater milk production, the number of plants at which to sell milk are fewer than when the order program first began. Implicit in this relationship, they said, is the degree of uneven market power that handlers have over producers. One commenter noted that the ratio of dairy farmers to milk plants today has increased threefold since 1960, an indicator of the growth in the concentration of market power among handlers. Even the prominence of dairy farmer cooperatives over the years has had little significant impact on the relative bargaining power of dairy farmers, noted many commenters. While these organizations have served with varying degrees of success in negotiating for higher milk prices for their members, they said, cooperatives do not and cannot have the ability to significantly impact prices because no entity can control or limit the supply of milk to the marketplace. Because dairy farmers face such a skewed marketing situation, most commenters view milk marketing orders as the only practicable tool to assure farmers receive a fair price for their milk.

Supporters of Option 1A indicated that because of the continuing marketing situation they face, no basis exists for concluding that more emphasis should be placed on a dairy farmer's ability to negotiate prices with handlers. According to these commenters, relying too much on the marketplace would only provide the incentive for producers to needlessly compete with each other to supply the higher-valued fluid market. Those that are successful might receive more for their milk than those who could not, but to this end, there is no guarantee that all handlers would pay the same price for milk. Nor is there a guarantee that handlers would share the higher-valued use of milk equitably with those producers. This, they said, results in disorderly marketing conditions and the pitting of farmer against farmer in unnecessary and destructive price competition. It was these conditions, they note, that led to creation of milk orders and justified the marketwide pooling and minimum pricing provisions contained in milk orders today. Only Option 1A, say its supporters, best establishes the proper value of milk that, together with classified pricing and marketwide pooling, assures the highest degree of equity for both producers and handlers.

Supporters of Option 1A agreed and recognized that it is important to have a Class I pricing structure that is national and more reflective of

marketing conditions for milk. Some commenters were of the opinion that the geographic pattern of milk production can be expected to remain as it is today. They noted further that Option 1A gives explicit recognition to more than a single reserve supply area in the country, and that Option 1A would assign the lowest differential in each of these reserve supply areas, what many supporters of Option 1A viewed as significant pricing reform.

Option 1A supporters also thought that the USDSS model served as an excellent tool in developing a Class I price structure. However, they also recognized the limitations of relying too much on this analytical model because it does not bring into consideration all of the other necessary judgements and factors that cannot be included in a model. For example, many commenters pointed out that while Option 1A used the USDSS model as a guide, it cannot be relied upon for making adjustments to conform with known relationships between and among geographic and actual plant locations. Further, said supporters of Option 1A, the model is static, and cannot estimate the dynamics of changes that may result in supply and demand conditions over time.

In summary, Option 1A supporters indicated Option 1A best assures the continuation of dairy farmers receiving a fair price for their milk. Processors, they also pointed out, would not see a significant change in their ability to compete for a milk supply since most of the value of fluid milk would be contained in the regulated minimum price. They concluded that any changes to milk orders that would diminish these outcomes would be harmful to the dairy industry and to the public interest.

Opponents to Option 1A view it as maintaining too much of the status quo and not addressing the reform needed in Class I pricing. The opponents of Option 1A also view the current Class I pricing structure as seriously flawed. In their view, the current system relies on recognizing the Upper Midwest region as the reserve supply of milk for the country when this is no longer the case. They see Option 1A as largely maintaining this viewpoint.

Opponents to Option 1A and the current Class I pricing structure are of the opinion that today's differential levels and Option 1A differential levels are too high, or at least higher than necessary to attract adequate milk supplies in many areas. Because Class I differentials are too high, they said, improper economic incentives exist in many areas for increased milk production—in fact overproduction—beyond what is needed to meet Class I demand. When this happens, opponents to the current system and Option 1A said, all producers nationally are negatively impacted because the overproduced milk supply drives down prices for milk used in manufactured dairy products which compete in a national market. They noted this is especially injurious to dairy farmers in markets where most of the milk produced is used in manufactured dairy products.

Adding to this, the opponents of the current Class I pricing system and Option 1A are also of the opinion that technology is available today to meet the supplemental milk needs of any milk-deficit area. Not only do they think that higher-than-necessary Class I differentials result in artificially-induced overproduction, they also believe that resulting high Class I prices may be reducing fluid milk consumption by consumers. They are of the opinion that it is more appropriate and efficient to attract milk to meet fluid demands by compensating those who incur the cost of shipping milk from surplus areas rather than paying a high price to local producers in milk-deficit areas to bring forth a sufficient supply of local milk to meet fluid demands.

Supporters of Option 1B indicated support for the more market-oriented theme reflected in this Class I pricing option. These supporters commented that Option 1B will allow milk prices to respond more appropriately to changing supply and demand conditions. Because of this, they said, the milk order program will become more market-oriented. The overall pricing structure offered in Option 1B, they say, flattens the resulting level of Class I prices throughout a larger portion of the country, thereby providing more of a level playing field for producers everywhere.

Supporters of Option 1B view the increased market-oriented theme as the proper direction in which to bring the Class I pricing structure as the milk order program is reformed. Not only is it consistent, in their view, with the reform mandates established by Congress in enacting the 1996 Farm Bill, the movement to a more market-oriented milk order program will provide incentives for private sector innovations that will benefit dairy farmers and consumers.

Supporters of Option 1B take a fundamentally different view than supporters of Option 1A on the appropriate level of the Class I differential. Supporters of Option 1A are of the opinion that Class I differential levels should be set high enough to assure the least amount of price inequity among handlers and should also be at levels high enough to not lower returns to producers. However, the supporters of Option 1B think that Class I differential levels should be set at minimum levels that will allow the effective price for milk to be much more determined by the marketplace. In this way, they said, milk production and prices would respond more effectively to changing supply and demand conditions. By taking this approach, they say, Option 1B Class I differential levels will provide a sufficient degree of the structure needed for producers and handlers, while reducing market distortions that result from regulation-induced prices that discriminate against producers, especially in the Upper Midwest region.

As mentioned above, supporters of Option 1B called for certain modifications. The most significant change included the lowering of the Class I differential level for Minneapolis, Minnesota. These commenters offered a $1.08 per hundredweight Class I differential level for this location. They based this recommendation on their own study and survey of prevailing conditions in the Minneapolis area. This proposal is consistent with their view that Class I differential levels should be set at minimum levels. This level included, they said, premiums above the Upper Midwest's order blend price, quantity and quality premiums, and hauling subsidies. From this level, all other differential levels should be set and adjusted.

These commenters also cited the USDSS model's limitation in determining the proper alignment of Class I differential levels, a similar criticism voiced by Option 1A supporters. These commenters are also of the opinion that, due to more than 60 years of Federal regulation, the relative value differences implied in the model results were too much like existing value differences than would be the case in an unregulated market. They indicated that the USDSS model's optimal solution values should be used conservatively as maximums in setting relative geographic differences to the Class I pricing structure. Some commenters suggested that because the model establishes geographic values for all milk uses, a bias results toward higher Class I values relative to manufacturing values in many markets.

Opponents to Option 1B did not like the idea of making the milk order program more market-oriented by reducing Class I differentials in setting Class I milk prices. If this is done, say Option 1B opponents, a cascading series

of events will result that seem not only contrary to why marketing orders exist, but will return the dairy industry to the marketing situations that led to their establishment. Most important, they said, Option 1B would result in, and in fact calls for, the altering of current supply and demand conditions for milk. These commenters are of the opinion that the Department should not act to cause changes in either prices or marketing conditions. Additionally, they are also of the opinion that it was not the intent of Congress to have milk order reform result in either an increase or decrease in returns to dairy farmers.

Opponents of Option 1B were of the opinion that too much reliance was placed on directly applying the USDSS model results as the Class I pricing structure, and that inappropriate reliance was also placed on the role of over-order premiums in achieving a more market-oriented pricing plan for the milk order program. Opponents argued that today's over-order premiums are directly tied to the differential levels and the alignment of Class I prices established under the existing orders. Additionally noted, current and consolidated markets have, and will continue to have, different circumstances that will disproportionately affect the ability of producers to negotiate over-order premiums, especially in those markets where Class I differentials are lowered most from current levels.

Because Option 1B calls for reductions from current differential levels nearly everywhere, they observed, less of a minimum order price is assured to producers. In those markets where minimum order Class I prices are reduced the most, a greater burden is placed on producers and handlers in negotiating actual prices relative to those orders where price levels are not as affected, they said. In other words, noted one commenter, producers in milk-deficit areas would have Class I differentials reduced the most and would be required to be much more market-oriented than producers in milk-surplus area where the differential level is maintained or increased. One commenter noted, that once over-order premiums are established, they can easily collapse because no one has the ability to control or limit milk production or the flow of milk to market. Very small additional volumes of milk to a market can destroy over-order premiums, this commenter added. On the producer side of relying too much on over-order premiums, they said, prices received would be much less equitably shared and uniform, and would tend to force dairy farmers to engage in ruinous price competition in seeking Class I outlets. On the handler side, they noted, order prices will not be high enough to bring forth that mix of local and distant milk supplies to meet Class I needs. Related to this, some commenters noted that the relative differences in prices that would be set under Option 1B would not provide enough of a price difference to cause milk to move from surplus to deficit areas as would be provided in Option 1A. Relying too much on over-order premiums will benefit large handlers to the competitive disadvantage of small handlers, they said. Because actual milk prices paid by handlers would increasingly be determined outside of the order's minimum pricing provisions, they concluded, handlers would be much less assured of the price their competitors are paying for milk.

*Conclusion*

Milk is a unique agricultural commodity and faces unique marketing circumstances. It is highly perishable, is produced daily and therefore needs to be marketed in a very committed and continuous production-and-marketing cycle. These characteristics, together with the fact that there are many more dairy farmers than milk buyers, presents the opportunity for marketing problems to occur that can be disruptive and destructive to dairy farmers. This sort of marketing situation places producers at a marketing disadvantage relative to handlers, and without some government involvement, equitable terms of trade between these two entities can be difficult to achieve. These unique features of milk and the marketing situation faced by dairy farmers were noted in public comments and are reflected in the legislation authorizing milk marketing orders. Milk marketing orders, using the tools of classified pricing and marketwide pooling, can significantly mitigate the undesirable effects of this marketing situation and still satisfy the public interest by having an adequate supply of milk at reasonable prices.

As noted in public comments, the structure of today's dairy industry, characterized by many dairy farmers and relatively few buyers, is basically the same as it was when the milk order program first began. No dairy farmer, dairy farmer cooperative or bargaining organization can effectively serve to either control milk production or limit the supply of milk to the marketplace to achieve a measure of reasonable price certainty. This can, from time-to-time, be achieved but such instances are generally short-lived and cannot be relied upon for serving the public's interest in having a sustainable, stable and reliable milk supply at reasonable prices.

It is clear from the many public comments received that dairy farmers are largely content with the current way the Federal milk order program has approached Class I milk pricing, both in its structure and the degree to which it is has returned equitable prices to producers and handlers. But some changes are needed to assure that this program remains viable to serve the needs of the dairy industry and the public well into the 21st century.

The need to reform the milk order program is clearly and uniformly recognized by industry participants and the public. To this end, most producers and handler entities are of the opinion that the reform effort should result in limited change in the prices that are established under the orders, and that any changes to the system be governed by a minimum of change in the prices and the terms of trade between producers and handlers. Other producer and handler entities are of the opinion that the ''traditional'' methods of Class I milk pricing are seriously flawed, resulting in a program that has become viewed as economically discriminatory to dairy farmers in certain regions of the country and is institutionally resistant to change. The public too, expects that the program should be operated in a manner that will provide and promote efficiency and offer the potential for a less expensive milk supply.

It is the Class I pricing structure that provides additional revenue above the basic value for milk to producers. Because of this, Class I pricing is often viewed as the cornerstone of the milk order program's pricing policy. This is so because the Class I fluid use of milk commands the highest-valued use in the marketplace and is the preferred outlet for milk by producers. It is also this use of milk that has the greatest effect on determining the location value of all milk and in determining the differences in blend prices that are received by producers.

Because milk value varies by location, it is appropriate, in using a classified pricing plan, to establish Class I prices that reflect these location value differences. Supporters of Option 1A and Option 1B agree this is best accomplished with a system of Class I differentials that properly links and aligns milk value. In evaluating how best to accomplish this, it is also important to recognize the significant changes that have taken place within the dairy industry since the full measure of Class I pricing was last undertaken at a 43-day national hearing in 1990.

Today, and as evidenced in the hearing record of 1990, there was general satisfaction with the way Class I milk pricing was developed and employed in a system of orders that had evolved over nearly 60 years. The record of that hearing evidenced that technological and structural changes were underway, but the record did not contain sufficient evidence for changes at that time. The Upper Midwest region of the country can no longer be considered the single reserve supply of milk that the country can rely upon for a supply of milk to meet fluid needs in deficit areas. In fact, the reform effort has clearly revealed that there are several reserve supply areas, and the Class I pricing structure changes adopted are reflective of this change. Other issues—technological factors, improved assembly and distribution systems allowing for sales competition of ever-larger geographic areas, the growing importance of milk value based on the value of its components—all speak to the need for reforming the Federal order system.

The PR preliminarily narrowed the Class I pricing structure to two options. Both have similarities and differences that have been discussed in detail. The adopted Class I pricing structure will work in conjunction with other reforms to milk order provisions, especially the more transparent product price formulas and the reduced amount of advance notice for Class I and Class II prices. Taken as a whole, the package of reforms retain the features that are desired and needed to achieve the goals of the AMAA articulated by Option 1A supporters while also providing the appropriate changes needed to obtain greater economic efficiency and equity—an objective voiced by supporters of Option 1B. The adopted class I pricing structure will establish Class I milk prices that will result in a sufficient supply of milk for the national system of reformed and consolidated milk orders.

The adopted Class I pricing structure recognizes and addresses the concerns of Option 1A supporters in their view of the limitations of relying on the marketplace in establishing milk prices to producers that are equitable and reasonable given the marketing situation they face. Similarly, the adopted Class I pricing structure recognizes that handlers will be assured a higher degree of minimum price equity. As importantly, the adopted Class I pricing structure provides the necessary structural reform needed in the dairy industry. The adopted structure provides the incentives necessary for increased efficiency in the organization and distribution of the milk supply and dairy products that is not offered by the price structure of Option 1A.

As discussed earlier, it is important and appropriate that the Class I price structure recognize all uses of milk. The classified pricing system of the Federal milk order program will continue to value fluid milk in the highest-priced class. The higher-priced classification encourages all milk to first satisfy Class I needs and the adopted Class I pricing structure accomplishes this. Additionally, it continues to consider the cost of moving milk from an alternate location for Class I use, a consideration important to both Option 1A and Option 1B supporters. This is reflected in its aligned structure, recognizing that in supplying milk for manufactured products, demand for manufactured products influences a market's ability to procure milk for Class I needs. In this way, the adopted Class I pricing structure appropriately considers all uses of milk as a national Class I pricing structure.

Finally, the adopted Class I pricing structure meets the requirements of the AMAA. The broad tenet of the AMAA is to establish and maintain marketing stability and orderly marketing conditions for milk. The Federal milk order program will continue to achieve these goals primarily through classified pricing and marketwide pooling. As to pricing requirements, the AMAA objective to stabilize the marketplace with minimum prices and not set market prices is also achieved. As a national Class I pricing structure, it specifically addresses, and adequately sets, appropriate Class I differential levels that will result in milk prices that are high enough to generate sufficient revenue for producers so that an adequate supply of milk can be maintained while continuing to provide equity to handlers.

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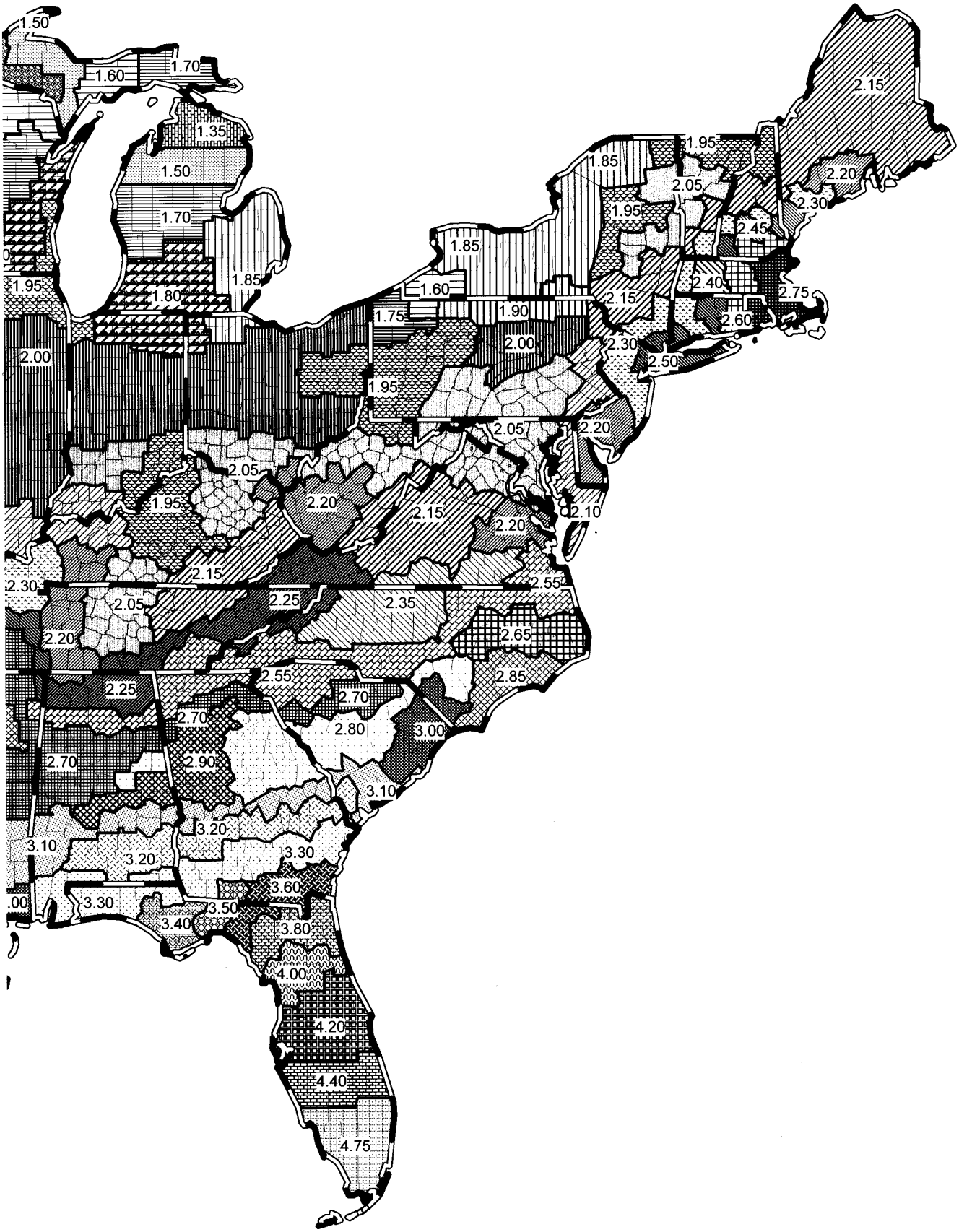
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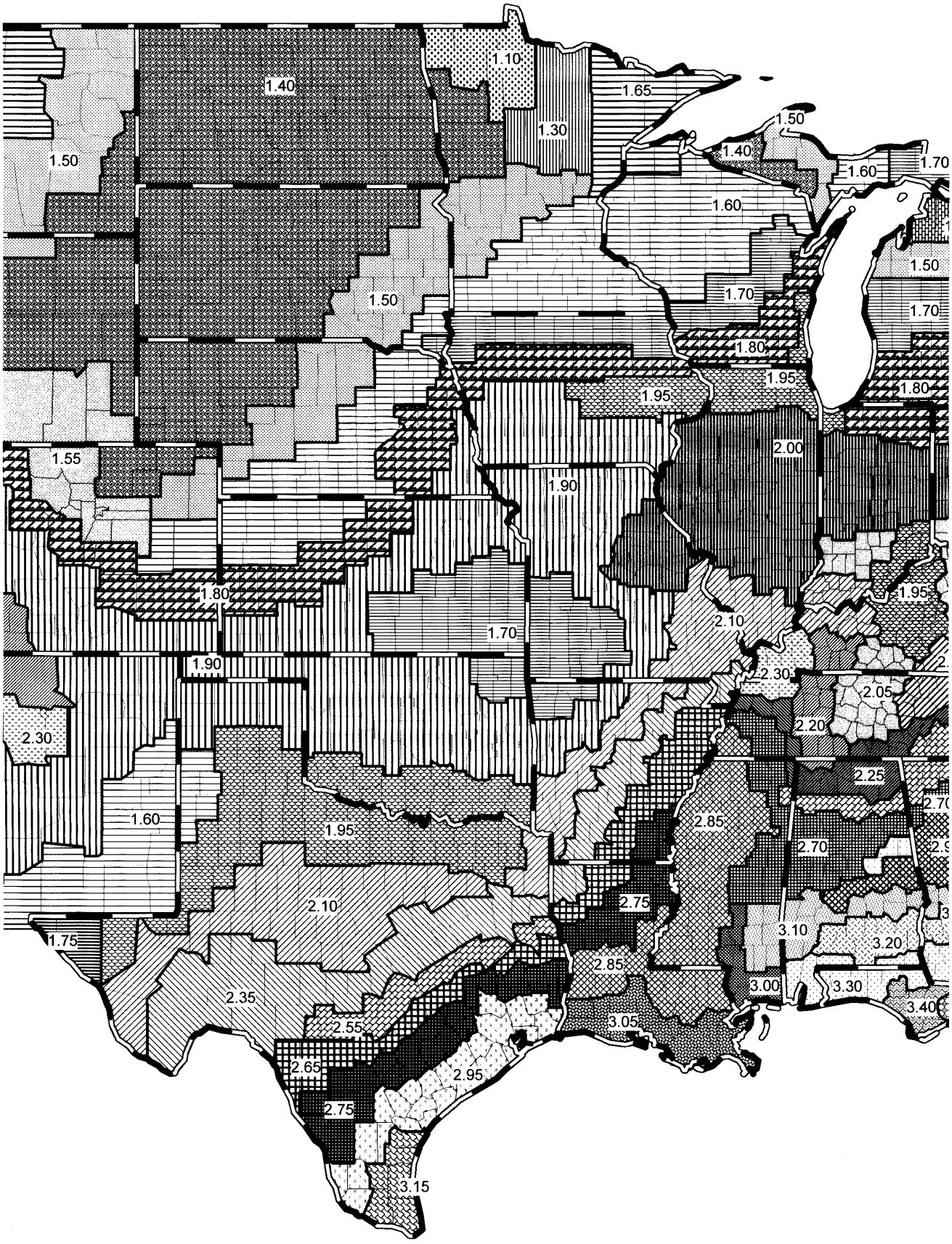
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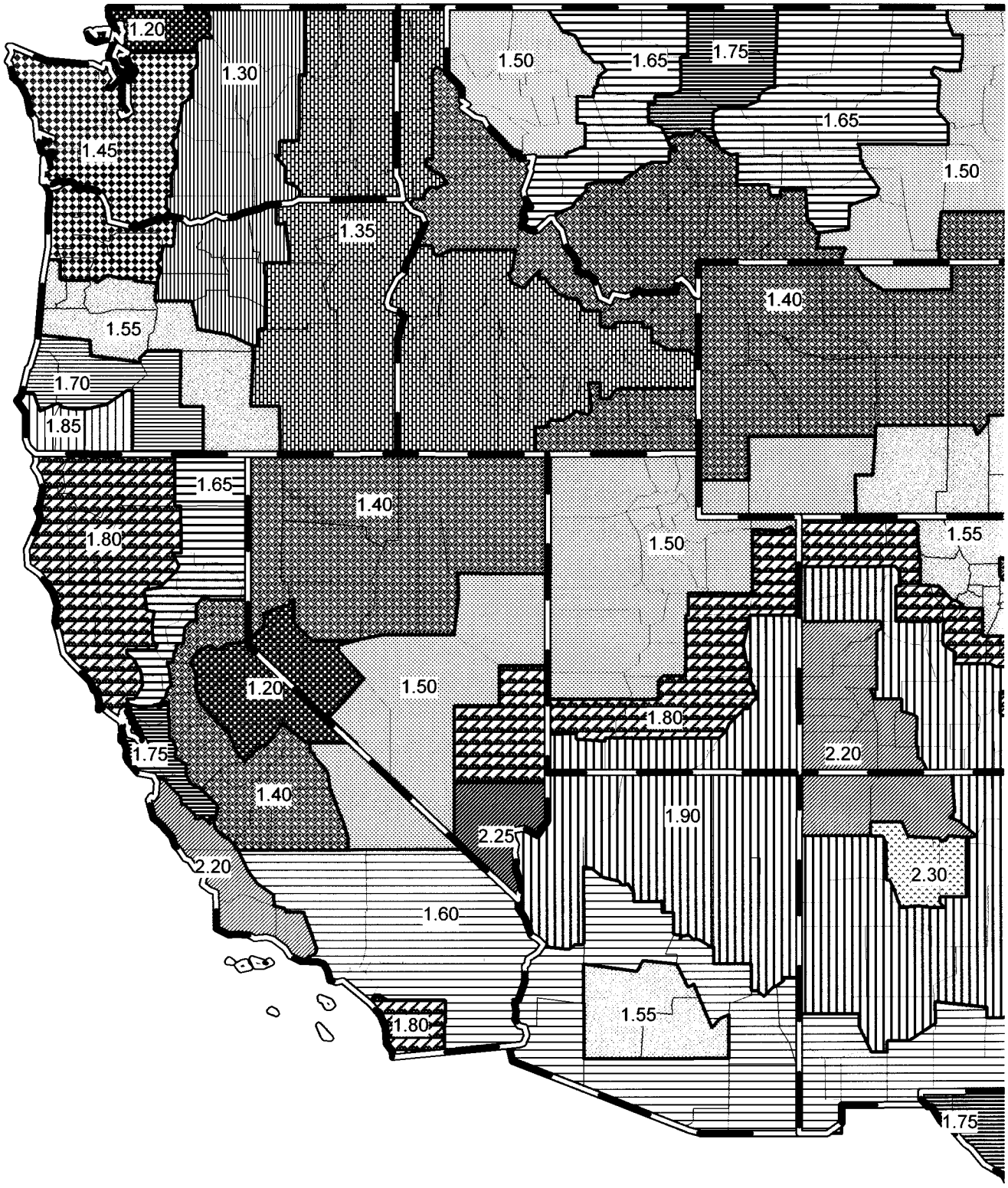


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**4. Classification of Milk and Related Issues**

The Federal milk order system should continue to contain uniform classification provisions, but with some modification. The proposed modifications are consistent with the Agricultural Marketing Agreement Act of 1937, which requires that milk must be classified ''in accordance with the form in which or the purpose for which it is used.''

The uniform provisions contained in this final decision provide for 4 classes of use. They are similar to the uniform classification provisions contained in the proposed rule, but with some modifications. In particular, cream cheese has been moved from Class II to Class III, and the proposed fluid milk product exclusion for products packaged in ''all-metal, hermetically-sealed containers'' has been changed back to the present standard: ''formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically-sealed containers.''

In addition to these changes, the proposed shrinkage provisions have been revised to more closely resemble the provisions that are now in the orders, and the provision for milk that is dumped or used for animal feed has been added back to the orders, but has been moved from Class III to a new paragraph, § 1000.40(e), which specifies other uses of milk that are to be priced at the ''lowest class price for the month,'' be it I, II, III, or IV. Milk that is lost in an accident, flood, or fire (i.e., § 1000.40(c)(3) in the proposed rule published on January 30, 1998, at 63 FR 4972) has been combined with milk that is dumped or used for animal feed in the new paragraph (e). Finally, the classification for inventory of fluid milk products and fluid cream products in bulk form has been moved from Class III to Class IV.

Changes in the proposed rule that have been carried forward to this final decision include the reclassification of eggnog from Class II to Class I, the formation of a new Class IV which includes milk used to produce butter and any milk product in dried form, and elimination of the term *filled milk* from the orders.

In addition to changes in the class uses of milk, this final decision modifies the definitions of *fluid milk* and *commercial food processing establishment.* Also, this decision contains modified administrative rules related to the classification of milk. These include rules for classifying skim milk and butterfat that is transferred or diverted between plants, general rules pertaining to the classification of producer milk (including the determination of shrinkage and overage), rules describing how to allocate a handler's receipts of skim milk and butterfat to the handler's utilization of such receipts, and provisions concerning the market administrator's reports and announcements concerning classification. The classification and classification-related provisions have been restructured, in part, to standardize and simplify the regulatory program.

Further details concerning these changes are explained in the following discussion.

*4a. Fluid Milk Product (§ 1000.15)*

The new orders contain a modified *fluid milk product* definition in § 1000.15. The changes to the fluid milk product definition include eliminating the term *filled milk,* including eggnog in the list of specified fluid milk products, and revising the word *buttermilk* to read *cultured buttermilk.* The revised fluid milk product definition reads ''any milk products in fluid or frozen form containing less than 9 percent butterfat and more than 6.5% nonfat milk solids that are intended to be used as beverages. Such products include, but are not limited to, milk, skim milk, lowfat milk, milk drinks, eggnog, and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated (to not more than 50% total milk solids), or reconstituted.''

The term ''buttermilk,'' as used in the fluid milk product definition, is changed to read ''cultured buttermilk.'' The revised term clearly distinguishes the ''beverage'' buttermilk product from the buttermilk byproduct which is produced from a continuous churning operation.

The fluid milk product definition also is modified to exclude ''filled milk'' and to include eggnog in its list of products. Although it is apparent that eggnog is a beverage milk product and clearly meets many of the criteria for being considered a fluid milk product, it is not now included in the list of products identified as fluid milk products. The addition of eggnog to the list of fluid milk products results in a change of the product's classification from a Class II product to a Class I product. The elimination of the term ''filled milk'' from the fluid milk product definition is discussed later.

In the proposed rule, certain changes were proposed for section 15(b)(1) of the fluid milk product definition. Currently, this section exempts from the fluid milk product definition ''formulas especially prepared for infant feeding or dietary use that are packaged in hermetically-sealed containers.'' As contained in the proposed rule, this exemption would have applied to ''formulas especially prepared for infant feeding or meal replacement'—without regard to the type of container—and ''any products packaged in all-metal, hermetically-sealed containers.'' These changes were not widely supported and have been dropped because they could result in reclassifying certain fluid milk products from Class I to Class II. The language in this final decision is identical to Section 15(b)(1) of the present orders.

*4b. Fluid Cream Product (§ 1000.16)*

No change has been made to the *fluid cream product* definition. The current definition is uniform under all the orders and should be used in the newly merged orders. There were no comments supporting a change in this provision.

*4c. Filled Milk*

The definition of *filled milk* has been eliminated from all milk orders and the term has been removed from the fluid milk product definition and other provisions within the orders. Filled milk is a product that contains a combination of nonmilk fat or oil with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids). Filled milk was first produced and marketed in the 1960s. In 1968, the orders were amended to provide a definition of filled milk. Currently, there is little or no filled milk being produced under Federal orders. The term filled milk is used 18 times in each of the milk orders. It serves little purpose today except to complicate and lengthen the regulatory language. For this reason, any reference to filled milk has been removed from all orders.

The form of filled milk and purpose for which it is used are the same as the form and purpose for which whole milk is used. Filled milk is marketed by handlers in the same types of packages and in the same trade channels as whole milk, and is mainly intended to be used as a beverage substitute for milk. Whether made from vegetable fat and fresh or reconstituted skim milk, or any combination thereof, the resulting product resembles whole milk in appearance. Therefore, any filled milk produced and marketed in the future will be classified as a Class I product under the revised fluid milk product definition.

No letters were received commenting on this change.

*4d. Commercial Food Processing Establishment (§ 1000.19)*

The definition of *commercial food processing establishment* (CFPE) has been revised by removing the filled milk reference, for the reasons previously discussed, and by removing the word ''bulk'' from the definition. The removal of the word ''bulk'' will allow a CFPE to receive fluid milk products and fluid cream products for Class II use in certain sized packages as well as in bulk.

Presently, the CFPE definition prohibits the receipt of fluid milk products for Class II use in relatively small pre-measured packages that might reduce the CFPE's production costs. While packaged fluid milk products should be permitted to be transferred to a CFPE in any size, only those products that are shipped in larger-than-consumer-sized packages (i.e., larger than one gallon) should be eligible for a Class II classification. If milk is received in gallon containers or smaller, the milk should be priced as Class I milk since there is no way of guaranteeing that such products will not be sold for fluid use. Permitting milk in any sized container to be sold to a CFPE for Class II use if the container had a special label, such as ''for commercial food processing use only,'' was considered, but such a provision would be impractical and it would be prohibitively expensive for a handler to prepare specially labeled products for small accounts. The current restriction barring a CFPE from having any disposition of fluid milk products other than those in consumer-sized packages (one gallon or less) should be retained under the new orders.

These two restrictions are based upon practical considerations. The integrity of the classified pricing system would be much more difficult to maintain if the market administrator were forced to audit every CFPE on a regular basis. By prohibiting the sale of fluid milk products in consumer-sized packages to a CFPE for anything but Class I use, there would be less need to regularly audit CFPE's to be sure that such products are not being sold to the public. Similarly, since packaged fluid milk products in containers larger than one gallon are rarely, if ever, found in retail outlets, it is unlikely that such products will be sold for fluid use. By restricting fluid milk product disposition by CFPE's to packaged products not larger than one gallon in size, there is reasonable assurance that milk priced as Class II will not be disposed of as fluid milk sold by the glass from a bulk dispenser.

There were no comment letters that addressed these recommendations in response to the proposed rule.

*4e. Classes of Utilization (§ 1000.40)*

Historically, the fluid or beverage uses of milk have been classified in the highest-priced class (Class I), and soft or spoonable products, those from which some of the moisture has been removed, have been classified in the intermediate class of milk (Class II). The final decision issued on February 5, 1993 (58 FR 12634) provided 3 uniform classes of milk for all orders. Classes I and II continued the traditional classification of milk, while the lowest-priced class (Class III) contained the hard, storable products. In a final decision that became effective December 1993, a fourth class—Class III–A (actually a sub-section of Class III)—was established for most orders for milk used to produce nonfat dry milk.

This final decision continues to provide a Class I classification for milk used for fluid and beverage use, with certain exceptions for formulas especially prepared for infant feeding or dietary use in hermetically-sealed containers and products with less than 6.5 percent nonfat milk solids. Soft or spoonable products, most soft cheeses, and milk that is used in the manufacture of other food products or sweetened condensed milk will continue to be classified as Class II. Class III will continue to apply to milk used in hard cheeses, cream cheese, and other spreadable cheese, but will no longer apply to butter. Finally, the new Class IV applies to all skim milk and butterfat used to produce butter or any milk product in dried form. Class IV will also apply to bulk milk that is in inventory at the end of the month.

A new paragraph (e) has been added to § 1000.40 that classifies other uses of milk that are priced at the ''lowest-priced class'' for the month.

Under the pricing formulas proposed for the new orders, it is not certain whether the Class III price or the Class IV price will be the lowest class price for the month. In view of this price uncertainty, a new paragraph has been added to § 1000.40 to guarantee that milk that is lost in an accident, dumped, or used for livestock feed is accounted for at the month's lowest class price.

Comments filed regarding the number of classes of utilization for the proposed merged orders varied from supporters of one class, which would eliminate all manufacturing classes, to supporters of 5 classes of milk. Comments concerning the addition of an export class were also received. However, a large majority of the comments on this issue supported 4 classes of utilization as proposed.

*4f. Class I Milk*

In this final decision, Class I milk includes all skim milk and butterfat contained in milk products that are intended to be consumed in fluid form as beverages, with certain exceptions. These exceptions include plain or sweetened evaporated or condensed milk, milk that is used in formulas especially prepared for infant feeding or meal replacement if such products are packaged in hermetically-sealed containers, and any product that contains by weight less than 6.5 percent nonfat milk solids.

Under this final decision, eggnog will join lowfat eggnog as a Class I product. Class I products are generally classified on the basis of their fluid form and intended use. Eggnog, a highly seasonal product, is clearly intended to be consumed as a beverage. Since this product is manufactured, packaged and distributed to the consumer as a drinkable beverage, it should be classified as a Class I product. Comments received regarding the reclassification of eggnog were generally in support of its reclassification into Class I, although a few handlers submitted comments opposing this change, arguing that it would increase the cost of eggnog and, therefore, reduce consumer demand for this product.

*Class I Used-to-Produce.* In order to simplify the accountability for milk products classified as Class I that may contain nonmilk ingredients and/or previously processed and priced skim milk and butterfat, the proposed rule recommended adding a ''used-to-produce'' category to Class I. The proposed rule stated that the used-to-produce accountability method would preclude the need to develop and maintain nonstandard conversion factors and non-milk credits (i.e., salt, flavoring, stabilizers) for milk product accountability and would improve the accuracy of handler reporting and minimize audit corrections without sacrificing any statistical information, pricing considerations, or classification criteria.

Several comment letters were received arguing that the proposed Class I used-to-produce category would not simplify the accounting system but instead would complicate it. No comments were received endorsing this proposal.

Our analysis of the proposed Class I used-to-produce category generally supports those who argued against it. If there were no need to follow a pool

distributing plant's route disposition to its ultimate source to determine under which order the plant would be regulated, it would be possible to simplify accounting by adopting a Class I used-to-produce category. However, with the pooling standards adopted in this final decision, the proposed used-to-produce category would simply require dual accounting with no offsetting benefit. Accordingly, the Class I used-to-produce proposal has been dropped from this final decision.

*4g. Class II, III, and IV Milk*

The classification of milk used in Class II, III, and IV uses and products is essentially the same as contained in the proposed rule with a few exceptions.

First, cream cheese is moved from Class II to Class III, where it has been for many years.

Second, fluid milk products and bulk fluid cream products in inventory at the end of the month have been moved from Class III to Class IV.

Third, the skim milk equivalent of nonfat solids used to modify a fluid milk product that has not been accounted for in Class I has been moved from Class III to Class IV.

Fourth, the proposed Class II classification for any fluid product in an ''all-metal, hermetically-sealed container'' is changed to what is now in the orders: i.e., ''formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically-sealed containers''.

Finally, the surplus classification for milk that is dumped or used for animal feed is added back to the orders, but, as described earlier, it has been placed in a new paragraph (e) of § 1000.40 which prices milk in the lowest-priced class for the month. For the same reasons cited previously, milk which is lost in a fire, flood, or accident also has been moved from Class III to the ''other uses'' class.

Under the proposed rule, the classification of cream cheese would have been changed from Class III to Class II. The rationale for this change was that the milk used in Class II products is used to process or manufacture products for which handlers know a consumer demand exists and that such products are neither as perishable as fluid products nor perform a balancing function for the market, as do butter, powder, and the hard cheeses.

This proposal was not well received by a large majority of the handlers and producer organizations that commented on it. The International Dairy Foods Association argued that the pricing of milk used for cream cheese under California's state order is below the Federal order Class II or III price and moving cream cheese from Class III to Class II would create a huge competitive disadvantage for milk used in cream cheese under Federal milk orders. The National Milk Producers Federation, Dairy Farmers of America, and numerous individual handlers repeated essentially the same argument.

Some comments addressed the classification of cottage cheese and ricotta cheese, in addition to cream cheese. A national manufacturer of cheese argued that milk used in cottage cheese and ricotta cheese should be reclassified from Class II to Class III. The handler stated that due to falling demand for cottage cheese, it should be placed with other cheeses in Class III. Another cottage cheese manufacturer made the same suggestion. Several comment letters also pointed out that ricotta cheese was priced under California's Class 4–b, giving California processors an advantage over processors making ricotta from milk priced under Federal milk orders. While these comments may have some merit, we believe that more information is needed before these changes can be considered.

Ending inventory of fluid milk products and fluid cream products in bulk form should be moved to Class IV. Since the Class IV price is expected to be the lowest class price in the long run, it is logical to classify ending inventory in Class IV. Also, paragraph (c)(4) of § 1000.40, should be moved from Class III to Class IV. This paragraph prices the skim milk equivalent of nonfat milk solids used to modify a fluid milk product. With the inclusion of a Class IV classification for all products in dried form, the nonfat milk solids used to modify a fluid milk product should be priced as Class IV, together with other dried products, rather than Class III.

Products lost by a handler in a fire, flood, or vehicular accident and products that are dumped or used for animal feed have been moved from Class III to a new paragraph (§ 1000.40(e)) which would price skim milk and butterfat in such uses at the lowest class price for the month. Under the pricing formulas proposed for the new orders, the Class III price or Class IV price is likely to be the lowest class price for the month, but it is possible under some orders that the Class I or II price could be the lowest class price for the month if component values were increasing rapidly. In view of this price uncertainty, a new paragraph has been added to § 1000.40 to guarantee that milk that is lost in an accident, dumped, or used for livestock feed is accounted for at the month's lowest class price.

As previously noted, formulas especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically-sealed containers should continue to be classified as Class II products. Although the proposed rule suggested a modification of this exemption, there was insufficient support to move forward with this suggestion. Accordingly, no change was made from the language that is now in the orders.

The treatment of buttermilk should remain unchanged from the proposed rule. No comments were received in opposition to the proposed distinction between buttermilk for drinking purposes and buttermilk for baking purposes. As set forth in the proposed rule, drinking buttermilk would have to be labeled as ''cultured buttermilk'' while buttermilk for baking must contain food starch in excess of 2% of the total solids in the product and the product must be labeled to indicate the food starch content.

The proposal to account for all Class II products on a used-to-produce basis was unopposed. Accordingly, this accounting method, which now applies to all Class II products, except for some fluid cream products, is extended to the remaining Class II products that are currently accounted for on a disposition basis.

As noted above, a large majority of the comment letters supported the 4 classes of utilization as set forth in the proposed rule, including the separate Class IV for butter and milk products in dried form. Therefore, no change has been made to Class IV in this final decision except for the addition of the items already discussed.

Several commenters reiterated requests made prior to the proposed rule to reclassify bulk sweetened condensed milk from Class II to Class IV. The commenters explained that sweetened condensed milk is primarily used in commercial food processing establishments and in the confections industry and that it is interchangeable with powdered milk products and sugar in ingredient markets for processed foods and candy. They argued that manufacturers of sweetened condensed milk are currently at a competitive disadvantage with manufacturers of nonfat dry milk and urged that the 2 products be classified identically. According to one commenter, the Galloway Company, the current system of classification places sweetened condensed milk at a significant disadvantage and has virtually