

# Bulletin

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Federal Order No. 2

New York–  
New Jersey  
Milk Marketing  
Area

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## Appeals Court Extends Stay of Class I Differential Action

On February 12, 1998, the United States Court of Appeals for the Eighth Circuit (Appeals Court) granted an extension of the 3-month stay previously granted by the U.S. District Court, District of Minnesota, Fourth Division (District Court). The stay is on the November 3 ruling from the District Court that would have prevented USDA from enforcing existing Class I price differentials in certain federal milk marketing orders (FMMO). Order No. 2 would have been one of the affected orders.

The District Court's temporary delay would have expired effective February 15, 1998. The Appeals Court order indicates that the stay will remain in place until the Appeals Court issues a final ruling on the appeal, or issues some further order.

As legal representative for USDA, the U.S. Department of Justice had filed a motion with the Appeals Court appealing the initial November 3 District Court decision and seeking an extension of the lower court's temporary stay. This determination means that Order No. 2, along with the other affected FMMOs, will be able to run monthly pools and calculate uniform prices in the usual manner, until directed to do otherwise. ♦

## BFP Floor Hearing Held

On January 23, 1998, Agriculture Secretary Dan Glickman announced that a public hearing would be held in response to industry requests to consider flooring the level of the basic formula price (BFP) for the purpose of determining Class I and Class II prices through December 1998. The hearing began on February 17 in Washington, DC.

The hearing was proposed by Mid-America Dairymen, Inc. (now part of Dairy Farmers of America, Inc.) who requested that this issue be handled on an emergency basis. Their proposed floor level is \$13.50 per hundredweight, but testimony will address whether that amount or some alternative level will be more appropriate.

A preliminary cost-benefit analysis conducted by USDA indicated that flooring Class I and Class II prices with a \$13.50 minimum BFP would increase the all-milk price in the New York–New Jersey Milk Marketing Area by \$0.74 per hundredweight, if in effect for calendar year 1998. ♦

## January 1998 Pool Highlights

- The January 1998 uniform price equaled **\$13.95**, unchanged from last month and \$1.30 higher than last year.
- Class III-A pricing lowered the January uniform price by \$0.04.
- Producer receipts totaled 1,012.0 million pounds, an increase of 5.4 percent from last year.
- Class I receipts totaled 417.3 million pounds, an increase of 3.8 percent from last year.
- Daily deliveries per producer (DDP) equaled 3,169 pounds, a year-to-year increase of 5.4 percent. ♦

## Order No. 2 Prices and Utilization for January

	1997	1998	Percent change
<b>Prices*</b>			
	dollars per cwt		
Uniform	12.65	13.95	10.3
Class I	14.03	15.38	9.6
Class II	11.91	13.26	11.3
Class III	11.97	13.28	10.9
Class III-A	11.53	12.07	4.7
<b>Utilization</b>			
	million pounds		
Class I	402.2	417.3	3.8
Class II	148.0	147.4	(0.4)
Class III	381.7	411.5	7.8
Class III-A	28.4	35.8	26.0
Producer Receipts	960.2 #	1,012.0	5.4

\* For bulk milk testing 3.5 percent butterfat in the 201-210 mile zone.

# Total does not add due to rounding.

## U.P. Forecasted to Increase

The uniform price **forecast** for **February 1998** is **\$14.13** per hundredweight of bulk milk testing 3.5 percent butterfat in the 201-210 mile zone. This is an estimate. ♦

## New York State Dairy Task Force

The New York State Dairy Task Force (Task Force) created by Governor Pataki in October 1997 has completed its deliberations. The Task Force has released a report containing recommendations aimed at ensuring the survival of dairy farms in New York State. The Task Force members included dairy farmers, milk processors, retail and consumer groups, as well as representatives from state government and Cornell University.

### Recommendations

Perhaps the most dramatic recommendation was the Task Force's suggestion that the Governor consider New York State's entry into the Northeast Dairy Compact, together with New Jersey and Pennsylvania. In support of this recommendation, Governor Pataki has announced that he would sign legislation, if passed by the State Legislature where it is currently pending, authorizing New York State to join the Northeast Dairy Compact. If approved in New York State, congressional approval would still be necessary before New York could become part of the Northeast Dairy Compact.

The Task Force report contains numerous other recommendations and discusses programs to strengthen the economic viability of New York State dairy farmers. Some specific suggestions include: exploring a tri-state compact with Pennsylvania and New Jersey to provide price protection for dairy farmers, further reductions in electricity costs for agriculture, expand and/or hasten the reduction in taxes paid by dairy farmers, and expansion of the economic development potential of agriculture in New York State.

For more information contact the New York State Department of Agriculture and Markets, One Winners Circle, Albany, NY 12235. ♦

## Organic Meetings Announced

USDA announced on January 29, 1998, that a series of four public meetings would be held to provide an opportunity for organic food producers, processors, marketers, the scientific community, and consumers to discuss the department's proposed rule for a National Organic Program. See article in the December 1997 issue of the *Bulletin*.

Meetings already held include Austin, Texas, on February 12 and Ames, Iowa, on February 18. Additional meetings are scheduled for Seattle, Washington, on February 26 and New Brunswick, New Jersey, on March 5. For more information write to Michael Hankin, National Organic Program, Room 2945 South Building, USDA, AMS, Transportation and Marketing, PO Box 96456, Washington, DC 20090-6456, or call (202) 720-3252, or FAX (202) 690-3924.

In addition, Secretary Glickman extended the public comment period for another 45 days; this brings the closing date to April 30, 1998. ♦

## Small Farms Commission Report Released

The National Commission on Small Farms recently released their 120-page report titled "A Time to Act." The report lays out a strategy to aid the survival of America's small farms. This study is part of the Clinton Administration's on-going efforts to address the needs of family farmers and preserve our nation's small farm heritage.

The commission was formed by Secretary Glickman in July 1997 in response to recommendations made by the USDA Civil Rights Action Team. A series of hearings and meetings were held around the country, one of which was in Albany, NY (see August issue of the *Bulletin*).

The commission sought ways for small farmers to be more competitive through government and private initiatives. Some of their recommendations include:

- λ Promoting and fostering new regional markets benefiting small farmers and the rural and urban poor through a federal interagency partnership.
- λ Providing training and technical assistance to small farm operators and beginning farmers through an entrepreneurial development initiative.
- λ Developing a research initiative that teaches small farmers to use less capital-intensive investments by fully utilizing their ingenuity, hard work, and the unique resources of their farms.

Dairy-specific recommendations include:

- λ The Economic Research Service and USDA should investigate the processing and retailing segments of the dairy industry to determine if excessive profits are being made at the expense of farmers and consumers. The study also should examine the profitability of retail dairy pricing in relation to other retail product pricing to determine if the dairy case is more profitable per square foot relative to other products.
- λ The Secretary of Agriculture should ask the Department of Justice to investigate anti-competitive behavior of the dairy industry within the processing and retail segments.

An action team led by Deputy Secretary Rominger will begin examining methods for implementing the recommendations of the commission. ♦

## Plant List Available

The compilation of *Plants, Handler, and Bulk Tank Units Under the New York-New Jersey Marketing Orders* is now available from this office. The list includes designated and temporary pool plants, including producer-handlers, regulated under Order No. 2 during December 1997. It does not include plants regulated under another federal or state order or those not regulated under any marketing order.

Anyone wishing to receive a copy of this list may do so by contacting this office. ♦

**Market Administrator  
New York–New Jersey Milk Marketing Area  
Administration Fund**

**INCOME AND EXPENSE  
STATEMENT**

For the Year Ended December 31, 1997

**Income:**

Assessments	\$ 4,122,868
Late-Payment Charges	478
Interest Earned	162,437
Other Income	<u>64</u>

**TOTAL FUNDS PROVIDED** **\$ 4,285,847**

**Expenses:**

Salaries and Services	\$ 2,627,786
Travel	211,147
Communications	108,203
Employer Payroll	
Contributions	549,541
Conferences and Meetings	3,801
Insurance	10,011
Rent–Building	252,694
Rent–Equipment	26,665
Repairs and Maintenance	136,933
Research Projects	5,600
Supplies, Stationery, and Printing	67,031
Testing & Weighing	29,562
Training	6,816
Depreciation of Fixed Assets	49,617
Amortization of Leasehold Improvements	8,455
Miscellaneous	<u>3,023</u>

**TOTAL EXPENSES** **\$ 4,096,885**

**EXCESS OF INCOME  
OVER EXPENSES** **\$ 188,962**

**BALANCE SHEET**

As of December 31, 1997

**ASSETS**

**Current Assets:**

Cash and Bank Deposits	\$ 175,486
Investments	3,000,897
Accounts Receivable:	
Handlers	\$ 360,997
Allowance for Uncollectible Accounts	(27,112)
Other	<u>48,654</u>
Deposits	3,224
Prepaid Expenses	21,058
Accrued Interest Receivable	79,427

**Fixed Assets:**

Furniture and Equipment	\$ 1,302,970
Leasehold Improvements	84,549
Accum. Depreciation	<u>(1,201,309)</u>
	<u>186,210</u>

**TOTAL ASSETS** **\$ 3,848,841**

**LIABILITIES & OPERATING BALANCE**

**Liabilities:**

Accounts Payable:	
Trade Creditors	\$ 8,050

**Accrued Liabilities:**

Salaries	\$ 78,268
Employee Annual Leave	212,069
Employee Payroll Deductions	145
Employer Contributions	<u>16,490</u>
	306,972

**Operating Balance** **3,533,819**

**TOTAL LIABILITIES  
& OPERATING BALANCE** **\$ 3,848,841**

## NY Farm Cash Receipts Increase

In a recently released NYS Department of Agriculture and Markets, Division of Statistics report, total cash receipts from farm marketings were up 6.4 percent in 1996, compared to the previous year. The report shows total receipts by NYS county for all products composed of all livestock and all crops. All livestock is subdivided into 1) dairy and 2) other livestock and poultry. All crops is broken into: 1) vegetables, 2) fruit, 3) greenhouse and nursery, and 4) field and other crops.

Total farm receipts equaled over 3.0 billion dollars in 1996. All livestock receipts account for over two-thirds of

this total. Dairy receipts made up nearly 56 percent of total farm receipts in 1996, up 13.8 percent from 1995. Of the nearly 1.7 billion in dairy receipts reported in 1996, Wyoming County accounted for nearly 7.3 percent, followed by St. Lawrence County with 5.1 percent, and Jefferson County with 4.4 percent. ♦

## Plant Freight Zone Determined

The freight zone for the following plant location has been determined:

Fredonia (Fairview Township), Pennsylvania in the 381–390 mile zone. ♦

## Determination of Uniform Price of \$13.95

Per hundredweight of milk testing 3.5 percent butterfat received in bulk from farms in the 201-210 mile zone

### January 1998

TOTAL VALUE OF POOLED MILK							
Class	Milk pounds	Per-cent	Minimum price	Value at minimum price	Transportation differential	Total value	Contribution per cwt of receipts
dollars							
I-A	403,085,161	39.8	15.38	61,994,497.83	148,143.08	62,142,640.91	6.141
I-B	14,216,096	1.4	15.38	2,186,435.58	(1,049.49)	2,185,386.09	0.216
II	147,427,479	14.6	13.26	19,548,883.71	18,884.41	19,567,768.12	1.934
III	411,467,953	40.7	13.28	54,642,944.16	44,656.60	54,687,600.76	5.403
III-A	35,772,562	3.5	12.07	4,317,748.23	8,404.61	4,326,152.84	0.428
Reported receipts	1,011,969,251	100.0		142,690,509.51	219,039.21	142,909,548.72	14.122
Adjustments:	Product pounds		Dollars*				
Sec. .60(d)(1) III	157		193.57				
Total Sec. .60(d)(1)	157	157	193.57			193.57	0.000 #
Sec. .60(d)(6) I	2,257,148		46,234.48				
Sec. .60(d)(6) II	5,055,251		(4,549.72)				
Total Sec. .60(d)(2) thru (6)	7,312,399		41,684.76			41,684.76	0.004
Total adjustments	7,312,556		41,878.33				
Total pool milk classified	1,011,969,408						
Handlers must pay			41,878.33	142,690,509.51	219,039.21	142,951,427.05	** 14.126
COMPUTATION OF UNIFORM PRICE							
	Milk pounds		Dollars			Dollars per cwt of receipts	
Total value of pooled milk				142,951,427.05			14.126
Less: Cooperative payments	656,657,250		262,662.90			0.026	
Freight adjustment to 201-210 mile zone			11,636.43			0.001	
Reserve			818,482.35			0.081	
Transportation credit	1,011,969,251		1,517,953.93	(2,610,735.61)		0.150	(0.258)
Value of pooled milk less subtractions				140,340,691.44			13.868
Add: Unreserved cash in producer settlement fund			829,019.07	829,019.07		0.082	0.082
Uniform Price	1,011,969,251			141,169,710.51			13.950

\* Includes transportation and other applicable differentials.

# Results from rounding.

\*\* In addition handlers must pay \$2,551,950.22 for butterfat in excess of 3.5 percent.

Note: The average butterfat test of milk delivered was 3.721208 percent. The butterfat differential was \$.114 for each one-tenth of one percent of butterfat.

## Comparative Price and Other Descriptive Statistics

	JANUARY 1997	DECEMBER 1997	JANUARY 1998
Order No. 2			
Handlers (with producer milk)	39	36	36
Bulk Tank Units	106	97	95
Producers	10,297	10,369	10,301
Daily Deliveries Per Producer (pounds)	3,008	3,106	3,169
Price Factors, Monthly Averages (dollars)			
Basic Formula Price, 3.5% butterfat, per cwt	11.94	13.29	13.25
Cheddar Cheese, 40-lb blocks, per lb #	1.2705	1.4163	1.4165
Butter, Grade A, 92-Score, Chicago Mercantile Exchange, per lb	.8174	1.1697	1.1061
Nonfat dry milk, Central States, per lb	1.1394	1.0740	1.0593
Uniform Prices (dollars per cwt, 3.5% butterfat)			
Order No. 1, Zone 1 (Boston)	13.68	14.78	14.74
Order No. 2, 1-10 mile Zone* (New York City)	13.52	14.82	14.82
Order No. 4, Philadelphia†	13.28	14.47	14.33
Class I Utilization Percentage			
Order No. 1	50.9	48.9	47.7
Order No. 2	41.9	42.5	41.2
Order No. 4	47.7	46.4	43.5

# National Cheese Exchange through April 1997; National Agricultural Statistics Service beginning May 1997.

\* Includes 15-cent transportation credit.

† Includes 6-cent direct-delivery differential.

## Secretary Issues Proposed Rule

On January 23, 1998, USDA Secretary Dan Glickman issued a proposed rule announcing changes to the Federal Milk Marketing Order (FMMO) program. The proposed changes would affect all marketing orders including the New York–New Jersey Milk Marketing Area.

The 1996 Farm Bill instructed USDA to reform the FMMO program. Although it required that there be fewer orders, it also authorized the Secretary to make other reforms to the program. The Farm Bill mandated that reforms be implemented by April 4, 1999.

U.S. agriculture is evolving toward a more market-oriented structure, free from traditional government involvement typified by price and income support programs. The FMMO program is being restructured to be consistent with this trend toward a more market-oriented dairy sector. However, the FMMO program retains its basic purpose—to provide for orderly market conditions in which milk is marketed, so that producers have an assurance of stable markets and adequate supplies of milk are available for consumers.

### Fewer Orders

The Secretary's proposal would reduce the current 31 orders to 11. The proposed consolidated regions are: Northeast, Appalachian, Florida, Southeast, Mideast, Upper Midwest, Central, Southwest, Arizona–Las Vegas, Western, and Pacific Northwest.

The proposed Northeast order consists of the three existing federal orders: New England (Order No. 1), New York–New Jersey (Order No. 2), and Middle Atlantic (Order No. 4). In addition, the new Northeast order includes the contiguous unregulated areas of New Hampshire, northern New York and Vermont, as well as the non-federally regulated portions of Massachusetts and the Western New York State order area. Maine and non-federally regulated areas of Pennsylvania are excluded.

Based on October 1995 information, the estimated Class I utilization for the proposed Northeast order was 47.7 percent, 5.3 percentage points higher than the Order No. 2 utilization percentage. This would have a slightly positive impact for Order No. 2 producers. The new Northeast marketing area would pool about 2 billion pounds of milk per month and have a population of over 51 million people.

### Changes in Product Classification

Under the proposed rule four classes of milk would

### Proposed Rule Highlights

- ✓ *There will be fewer orders.*
- ✓ *Minor revisions are made to products included in each class of milk.*
- ✓ *The basic formula price will be replaced to better reflect the value of milk components.*
- ✓ *Minimum fluid milk (Class I) prices will be more market-oriented.*
- ✓ *Common provisions will streamline the orders.*

### Order No. 2 Specific Changes

- ✓ *Producers will be paid based on plant-point pricing.*
- ✓ *Payments will be based on multiple component pricing.*

be established. A new Class IV, which would replace Class III-A, would include milk used to make butter and any dried milk. Cream cheese would be moved from Class III to Class II and all eggnog would be included in Class I.

### BFP Replaced

The proposed rule suggests replacing the BFP with a Class III price based on multiple component pricing. Multiple component pricing involves determining a value for milk based on the values of protein, butterfat, and other nonfat solids used in manufacturing products.

Component prices would be based on USDA's National Agricultural Statistics Service (NASS) surveys. NASS currently surveys and reports block Cheddar cheese prices. They would add surveys and reports of transaction prices for butter, dry whey, and nonfat dry milk. Manufacturing or "make" allowances—estimated costs of producing dairy products—would be deducted from the commodity prices surveyed by NASS.

The method for establishing minimum Class I prices would be similar to the current method in which a Class I differential is added to a base price (currently it is the second preceding month's BFP). The new base price would be a 6-month declining average of the Class III or Class IV (the current Class III-A) price, whichever is higher.

### Class I Prices Changed

FMMOs would continue to establish minimum prices that regulated handlers must pay to producers for milk

based on its end use. The FMMO program also would continue to recognize the higher costs of supplying milk for fluid use, including the costs of transporting milk and the costs associated with balancing supplies and use within each market.

The Class I price is the minimum price that regulated handlers must pay for milk used in fluid products—called Class I milk. Producers do not receive this price directly; rather, they receive a weighted average, called the blend or uniform price, that represents the volume and price of all milk in the marketing order area used in all classes.

Since the BFP is the same for every milk order, most discussions of Class I prices focus on the Class I differential, which varies across milk orders. These differentials vary for two reasons. First, there needs to be a price incentive to move Grade A milk from points of production to fluid processing plants, which are typically located closer to population centers than to production areas. However, federal orders also recognize that local milk prices should not exceed the cost of available “distant” milk plus transportation costs to the “local” market. Second, the price incentive also persuades manufacturing plants to “give up” milk and make it available for the fluid market.

Two pricing options are presented for consideration in the proposed rule:

#### Option 1A

Option 1A is a set of Class I prices that vary by location (called a “price surface”) and closely reflects current federal order prices, but makes adjustments for recent changes in economic conditions.

#### Option 1B

Option 1B is USDA’s preferred alternative and represents a more market-oriented option. This option still provides minimum prices for higher-valued fluid use, while relying more on the market to generate higher prices when needed to attract a sufficient supply of milk to markets.

#### **Common Provisions**

Over time, each milk order has been amended to contain provisions that may be unique, but may also be similar to other orders. The identical provisions section of the proposed rule recommends streamlining provisions, terms, and definitions applicable to all orders.

#### **Specific Changes Affecting Order No. 2 Producers**

##### Plant-Point Pricing

The proposed rule recommends that the consolidated Northeast marketing area adopt plant-point pricing. Currently producers pooled under Order No. 2 are paid based on the township location of their milkhouse (farm-point pricing).

Under plant-point pricing, producers would be paid based on the location of the plant where their milk is received. Negotiating hauling charges between producers and handlers could become an important factor affecting producer prices under plant-point pricing.

##### Multiple Component Pricing

Payment to producers based on a multiple component pricing plan is proposed for the consolidated Northeast order. Pay prices would be based on pounds of butterfat, protein, and other solids in producer milk. An adjustment would be made based on the average somatic cell count.

#### **Additional Information**

USDA news releases and media advisories are available on the Internet by accessing the USDA’s Home Page on the World Wide Web at <http://www.usda.gov>. The proposed rule can be accessed at <http://www.ams.usda.gov/dairy/reform> or purchased from the Government Printing Office by calling (202) 512-1800.

The public has until **March 31, 1998**, to comment on the contents of the proposed rule. All comments should be identified with docket number: DA-97-12. To facilitate the process, please state the particular topic(s) addressed, from the following list, at the beginning of the comment: consolidation, basic formula price, Class I price structure, other class prices, classification, provisions applicable to all orders, regional issues (please specify: Northeast, Southeast, etc.), and miscellaneous and administrative. If comments pertain to a specific order, please identify such order.

Comments (two copies) should be mailed to Richard M. McKee, Deputy Administrator, Dairy Programs, USDA/AMS, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456; or faxed to (202) 690-3410; or e-mailed to [Milk\\_Order\\_Reform@usda.gov](mailto:Milk_Order_Reform@usda.gov).

Following the comment period, a final rule will be published, taking into consideration all submitted materials from interested parties. Then, a referendum will be held to determine approval for the new marketing order.

### **Proposed Consolidated Northeast Milk Marketing Area, January 1998**