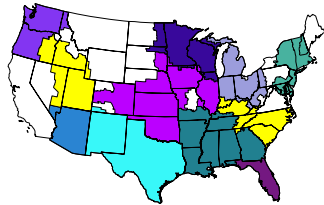




Informational Meeting on Federal Milk Marketing Order Reform and the Final Decision

1999



Prepared by:
Milk Market Administrator's Office
Federal Order No. 2
Albany, New York

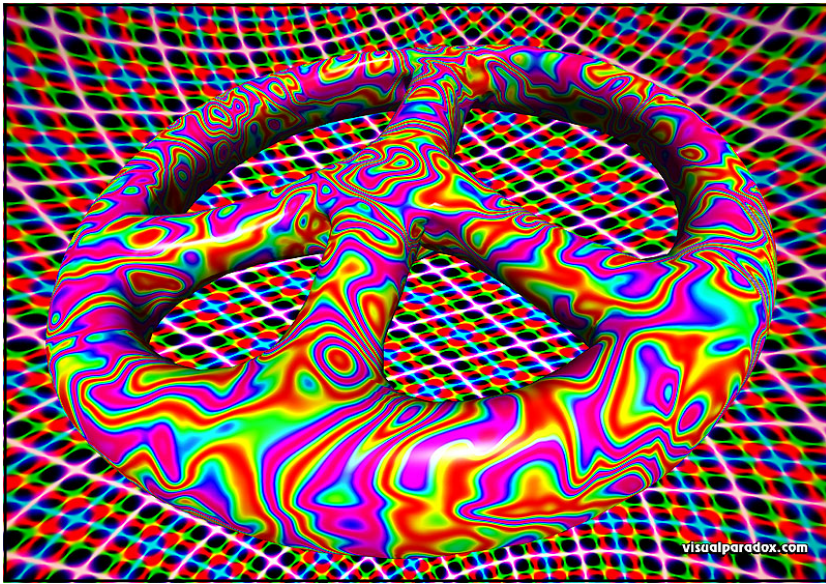
Final Rule
Federal Order Reform

Can we learn from federal milk market order history?

June 2009

**Will Francis
NYS Department of Agriculture and Markets
Albany, New York**

**Views and opinions are mine alone and do not
necessarily reflect policy positions of my employer.**



Topics to Cover Today

- Birth of FMMOs – very old history
- FMMO 101 basics – what they are and what they are not
- Federal Order Reform (1996) – recent history
- Amplified Decisions 1 and 2 (608c18 cost of production tie-in)
- Lessons for today or the future?

Birth of FMMOs – Old History

- Context
 - Era of Collective Bargaining (1916 to 1933)
 - Early Cooperatives (self help program)
 - Very rich NY and regional history
 - 1929 = 2008/2009?
 - 1930 One of every five were employed in agric.
 - Only one thing can save us now...

Birth of FMMOs History (cont)

- 1933 Era of Public Control
 - 1933 Agricultural **Adjustment** Act
 - Licensing for milk dealers (read supply control)
 - 1937 Agricultural Marketing Agreements Act
 - Replaced licensing with “secretary’s orders” (terms of trade)
 - Parity: 1910-1914 base year for economic condition (price enhancement)
 - Stability under “controlled competition”
 - 1937 Rogers-Allen Act (aka the Cornell bill)

Birth of FMMOs History (cont)

- Era of Public Control has given us new terminology to use:
 - Orderly marketing
 - Classified pricing and pooling
 - Compensatory payments
 - Adequate and dependable supply of milk
 - Transportation differential
 - Class I differential
 - Butterfat Differential
 - The list goes on...



What Federal Milk Orders Do:

- **Define terms of trade between buyers/sellers**
- **Allow for changes in marketing conditions**
- **Verify weights and tests**
- **Enforce minimum prices**
- **Ensure accurate payments to producers**
- **Require handler reporting of receipts, use, and payments**
- **Establish specific accounting procedures for milk**
- **Audit handler records**



Federal Milk Orders Do Not:



- Prevent payment of prices higher than minimum
- Determine who milk is bought from or sold to
- Regulate trade at the wholesale/retail level
- Regulate producers or control production
- Guarantee a market/buyer for a producer
- Guarantee a blend price level
- Prohibit milk from being marketed anywhere in the United States
- Prohibit movements of milk between orders
- Establish sanitary and quality standards

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Federal Order Reform

Why 1996 Federal Order Reform?

- Context
 - CA passes WI in total milk production 1993
 - Upper Mid-West vs. the rest of the country
 - Pending litigation Minnesota Milk Producers Association
 - Steve Gunderson (WI) attempts to gut FMMOs (held series of field hearings in 1995)
 - 1995 USDA holds Farm Bill listening sessions
 - Northeast Compact Authorized in Farm Bill until Orders are reformed



Reform Mandates for Federal Milk Orders

1. Transition dairy industry to a more market-oriented program similar to other agricultural commodities
2. Consolidate to between 10 and 14 orders
3. Consider new methods for determining prices
 - Basic Formula Price
 - Class I Prices
4. New orders effective October 1, 1999

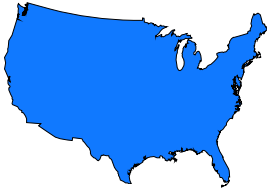


What's Not Changed?

- Regional Marketing Areas
- Audit and Verification
- Minimum Pricing
- Classify Milk By Use
- Pooling Revenues
- Orderly Marketing
- Market Information



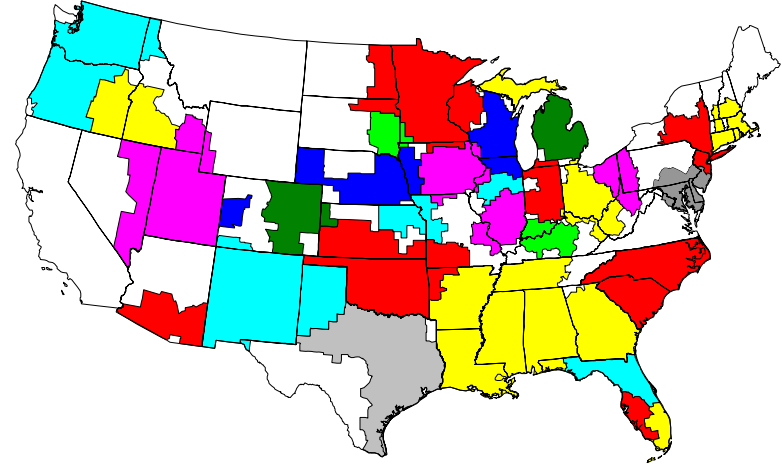
Overview of Final Decision: What's Being Changed ?



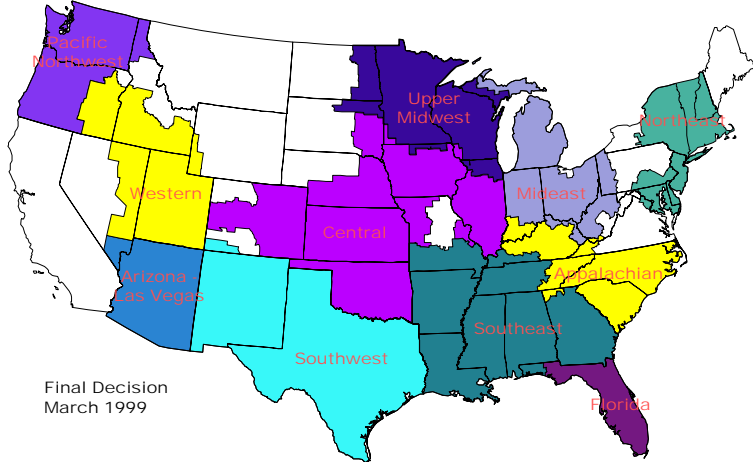
- Fewer Orders
- BFP Replaced (MCP)
- Market-Oriented Prices
- Classification Changes
- Streamlined Orders

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Federal Order Reform

Current
Federal Milk Marketing Order Areas



Consolidated Federal Milk Marketing Order Areas



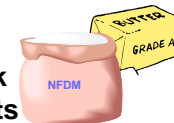
USDA The Final Decision Replaces BFP Creates 2 Price Classes

Class III
➤ Cheese



Class IV

➤ Butter
➤ Dry Milk Products



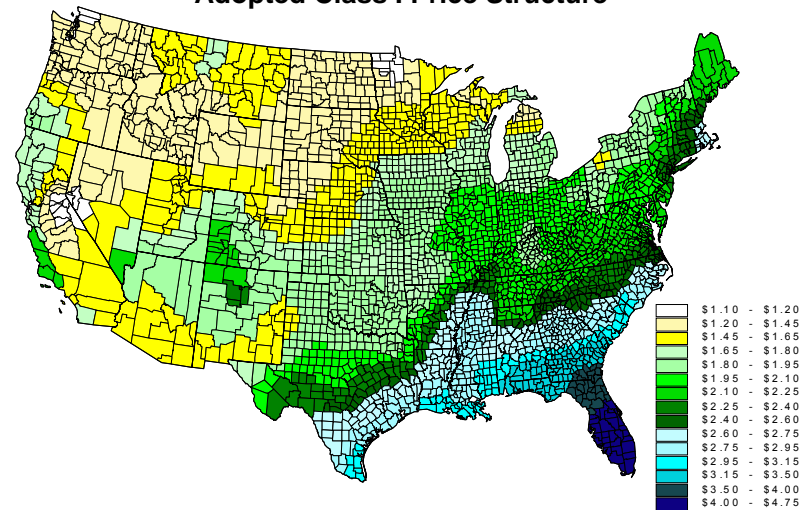
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USDA Final Decision Class I Differentials

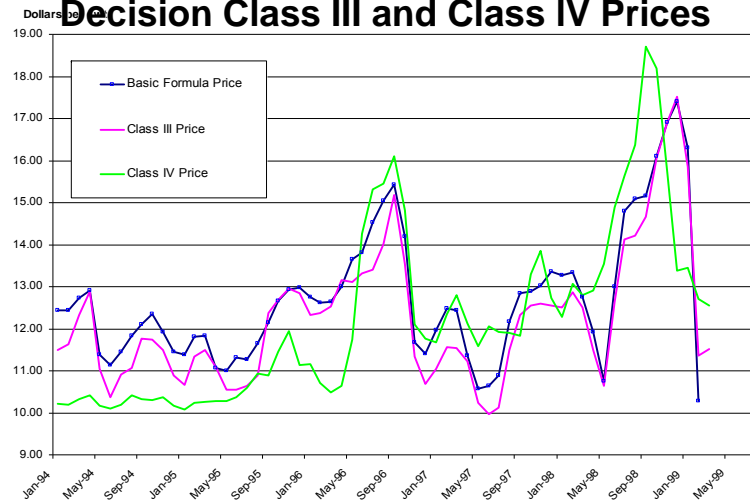
- Class I differentials serve as incentives to move milk from where it is produced to fluid processing plants
- Aligned Class I pricing surface in every county of the United States
- Class I price at any location would be the same regardless of order under which handler is regulated
- Adopted Class I price structure uses the generally higher differential levels as proposed in Option 1A while generally retaining the pricing surface of the preferred option.

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Adopted Class I Price Structure



Current Basic Formula Price vs. Final Decision Class III and Class IV Prices



Product Classification

Class I

- Bottled Milk
- Cultured Buttermilk
- Eggnog



Class III

- Cheese
- Cream Cheese



Class II

- Ice Cream
- Cottage Cheese
- Yogurt
- Hermetically-Sealed Containers
- Pkg. Cream



Class IV

- NFDM
- Butter
- Dry Powder



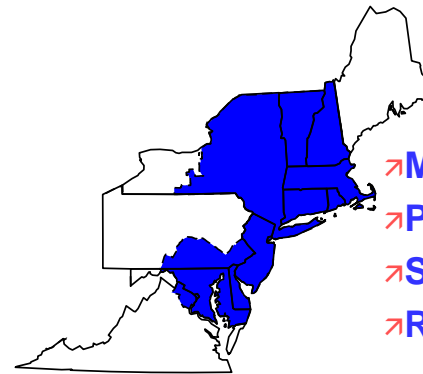


Other Order Provision Changes

- **Standardization and consolidation of many order provisions into Part 1000**
- **Definitions**
 - ◆ Regulatory standards for plants and handlers
 - ◆ Uniform reporting
 - ◆ Uniform classification

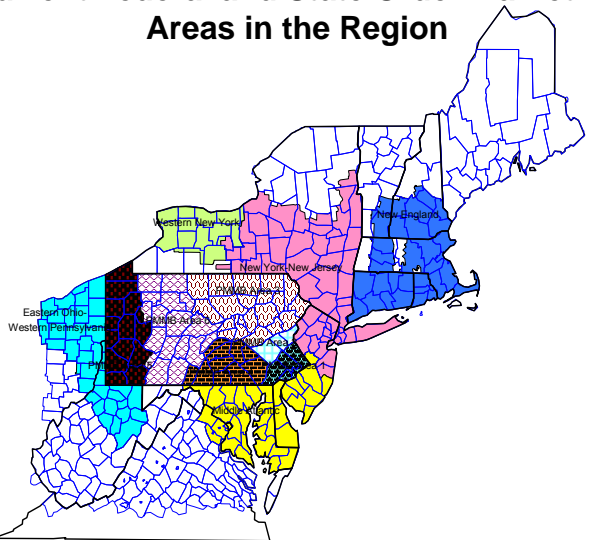


Overview of Final Decision -- Northeast Order --

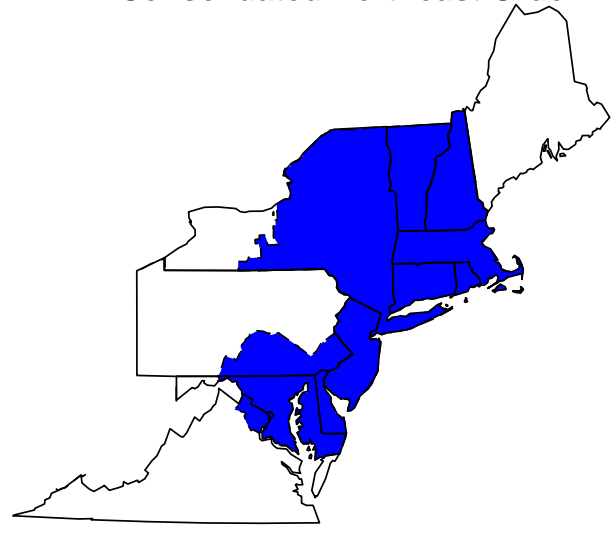


- **Marketing Area**
- **Pricing Provisions**
- **Specific Changes**
- **Referendum**

Current Federal and State Order Marketing Areas in the Region



Consolidated Northeast Order



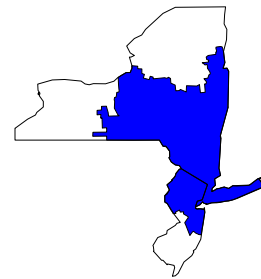


Marketing Area Comprised Of:

- Current New England Order
- Current New York-New Jersey Order
- Current Middle Atlantic Order
- Currently unregulated areas in northern New York, Vermont, New Hampshire, and Massachusetts
- Western New York State order area is **not** included
- Non-federal order areas in Pennsylvania are **not** included



Overview of Final Decision -- Order No. 2 --



Specific Changes



Order No. 2 Specific Changes

- Change from farm-point to plant-point pricing
- Transportation credit eliminated
- Cooperative payments discontinued
- Deduction for marketing services
- Seasonal price adjustments eliminated
- Pass-thru provision eliminated

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Federal Order Reform

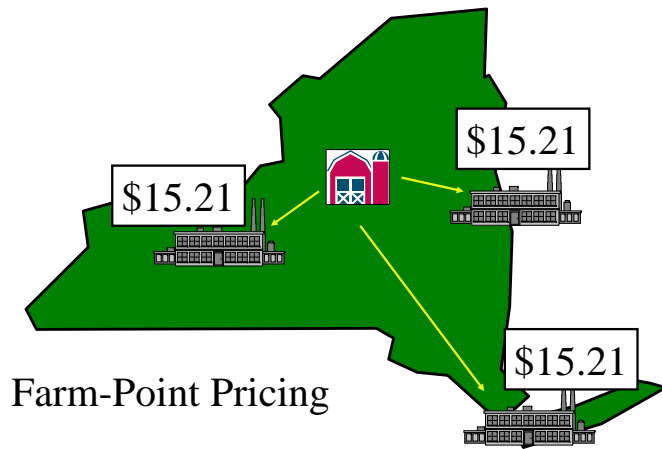


Change From Farm-Point Pricing to Plant-Point Pricing

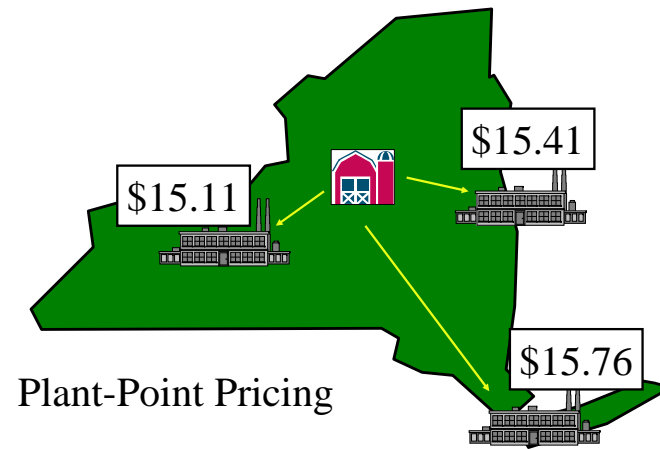
- Currently, Order No. 2 operates under **farm-point** pricing where the township zone of a farm's *milkhouse* is the price point that affects a producer's pay price.
- Order No. 2 is the *only* federal order now using a farm-point pricing structure.
- The final decision adopts **plant-point** pricing for the Northeast order. This means that the location and zone of the *plant* where the producer's milk is shipped becomes the pricing point.

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**Current Producer Pricing
Under Federal Order No. 2**



**Final Decision Pricing
Under Northeast Order**





Plant-point pricing (continued)

- Under plant-point pricing milk is priced FOB the plant of first receipt. Therefore, negotiating hauling charges between producers and handlers will become an important factor affecting a producer's net pay price.
- Under plant-point pricing the 15 cents per hundredweight transportation credit, which currently in Order No. 2 is deducted from the pool prior to calculating the uniform price, will be eliminated.
- Currently under Order No. 2, a maximum allowable limit is set for hauling deductions from producers delivering to proprietary handlers. This will be eliminated.

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Cooperative Payments Program Discontinued **SKIP**

- The present cooperative payments program pays qualified cooperatives 4 cents per hundredweight for providing marketwide services and balancing functions. The net cost of the program in Order No. 2 is a reduction of the monthly uniform price by about 2.4 cents per hundredweight. This will be eliminated in the northeast order.

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Deduction for Marketing Services Program **SKIP**

- To cover costs of verifying or establishing weights, samples, and tests and providing market information, a deduction of up to 7 cents per hundredweight will be made from non-cooperative member producers.
- Such services will be performed by the market administrator or his/her agent for producers who are not receiving such services from a cooperative. In the combined Northeast order there will be about 4,500 non-member producers.
- Currently, Orders No. 1 and 4 have market services programs and do not provide for cooperative payments.



Referendum Procedures **SKIP**

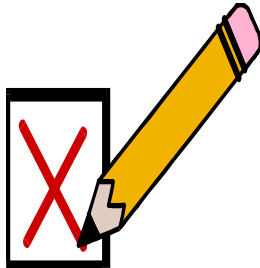
- **All producers expected to be pooled will be eligible to vote**
- **Following normal referendum procedures, cooperatives are allowed to bloc vote**
- **Vote will be on whether or not to adopt the consolidated order and its accompanying provisions**
- **Voting to retain the present order is **not** an option**



Referendum Procedures **SKIP** (continued)

Orders approved by:

- ◆ 2/3 of eligible, voting producers
- OR
- ◆ Producers representing 2/3 of the total marketings of those voting



Qualitative Uniform Price Impacts for Order No. 2 Producers

SKIP

<u>factor</u>	<u>impact</u>	<u>reason</u>
Consolidation	+	Higher Class I and II utilization
Class I differential	-	Lower differential values
Class I mover	+/-	Higher of Class III or IV
Class II price	+/-	Higher differential but mover Δ
Class III price	-	Overall average lower
Class IV price	-	Average about the same
Reclassification	+/-	Impacts generally cancel
Component pricing	+/-	Greatest variation between producers



Where to Obtain Information:

SKIP

➤ NY– NJ Milk Market Administrator:

- ◆ (518) 452-4410
- ◆ www.fmmone.com



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Where to Obtain Information (Continued)

➤ Dairy Programs:

- ◆ (202) 720-4392
- ◆ www.ams.usda.gov/dairy/reform

SKIP

➤ Any Market Administrator Office

➤ Input Solutions for CD copy of all comments and rule

- 1-800-935-7226



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Amplified Decisions

- Started back in 1990 – Minnesota Milk Producers Association
- Objected to Eau Claire plus pricing
- Challenge to 608c(18)
- Followed 1990 National Hearings

First Amplified Decision

- 59 Fed. Reg. 42422 (August 17, 1994)
- US District Court Minnesota gave Secretary 120 days to file an amplified decision (decision dated April 14, 1994)
- Provided additional findings to show why Secretary decided not to change the Class I pricing structure

Second Amplified Decision


- 61 Fed. Reg. 49081 (September 18, 1996)
- US District Court Minnesota didn't like first amplified and gave Secretary another 120 days to file explain (decision dated May 16, 1996)
- Gently explained that court may have misunderstood things
- M-W is an "automatic reflector" of supply and demand factors required by 608(c)18
- M-W forms the basis for all classified pricing, automatically incorporates the price and availability of feed as well as numerous other factors

St. Albans Cooperative Creamery v. Glickman, 68 F. Supp.2d 380 (1999)

- Judge William K. Session, US District Court
- Indirect consideration of feed factors not enough – literal reading of 608(c)18
- Never appealed
- Congress changed impact via 106 P.L. 113 (Nov. 29, 1999)

References

- "Economic History of Dairy Markets or How Economic and Political Events Transpired to Result in a Complex Web of Dairy Policies," Andrew Novakovic, Cornell University, 16th Annual Workshop for Dairy Economists and Policy Analysts, Washington, DC, April 2009.
- "Federal Milk Marketing Order Reform (Continued)," Ed Jesse and Bob Cropp, University of Wisconsin, Madison, Marketing and Policy Briefing Paper No. 73, November 2001
- Other publications from the Wisconsin Marketing and Policy Briefing Papers Series
- Cornell Program on Dairy Markets and Policy, FMMO Reform Website section
- More to follow...



● Let's now check Craig's List
and see what we can get...