

Appendix A

Legislative Language: Dairy Forward Pricing Pilot Program

H. R. 3428

To provide for the modification and implementation of the final rule for the consolidation and reform of Federal milk marketing orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 17, 1999

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SEC. 3. DAIRY FORWARD PRICING PROGRAM.

The Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new section:

SEC. 23. DAIRY FORWARD PRICING PILOT PROGRAM.

(a) PILOT PROGRAM REQUIRED- Not later than 90 days after the date of the enactment of this section, the Secretary of Agriculture shall establish a temporary pilot program under which milk producers and cooperatives are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) MINIMUM MILK PRICE REQUIREMENTS- Payments made by milk handlers to milk producers and cooperatives, and prices received by milk producers and cooperatives, under the forward contracts shall be deemed to satisfy--

(1) all regulated minimum milk price requirements of paragraphs (B) and (F) of subsection (5) of section 8c; and

(2) the requirement of paragraph (C) of such subsection regarding total payments by each handler.

(c) MILK COVERED BY PILOT PROGRAM-

(1) COVERED MILK- The pilot program shall apply only with respect to the marketing of federally regulated milk that--

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) RELATION TO CLASS I MILK- To assist milk handlers in complying with the

limitation in paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the handler's obligations with regard to Class I milk usage.

(d) DURATION- The authority of the Secretary of Agriculture to carry out the pilot program shall terminate on December 31, 2004. No forward price contract entered into under the program may extend beyond that date.

(e) STUDY AND REPORT ON EFFECT OF PILOT PROGRAM-

(1) STUDY- The Secretary of Agriculture shall conduct a study on forward contracting between milk producers and cooperatives and milk handlers to determine the impact on milk prices paid to producers in the United States. To obtain information for the study, the Secretary may use the authorities available to the Secretary under section 8d, subject to the confidentiality requirements of subsection (2) of such section.

(2) REPORT- Not later than April 30, 2002, the Secretary shall submit to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report containing the results of the study.'

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Appendix B

Final Rule: Dairy Forward Pricing Pilot Program

information requirements and duplication by industry and public sector agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Committee's subcommittee meeting on November 9, 1999, and the Committee meeting on November 10, 1999, where this action was deliberated, were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

A proposed rule concerning this action was published in the **Federal Register** on January 31, 2000 (65 FR 4583). Copies of the rule were mailed by the Committee's staff to all Committee members and alternates, the Raisin Bargaining Association, handlers, and dehydrators. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended March 31, 2000. One comment was received.

The commenter supports the change in desirable carryout, but expressed concern over the impact of the change on the Committee's program to promote California raisin sales in foreign markets. The purpose of this rulemaking action is to change the desirable carryout to more accurately reflect actual carryout inventory and early-season shipments. Desirable carryout is the amount of tonnage from a specific crop year needed during the first part of the succeeding crop year to meet market needs. Failure to provide adequate raisins for market needs during the first part of the crop year would likely have a negative impact on prices and sales later in the season. Such an impact would likely be felt in domestic and foreign markets. The increase in desirable carryout would make more raisins available to handlers as free tonnage, and might reduce the amount of reserve raisins handlers purchase to meet their market needs. However, Committee sponsored promotional activities are not expected to be negatively impacted by this action. Those promotional activities are planned and implemented later in the season, when carryin inventories and the size of the new crop are known. Additionally, those promotional activities are planned by the Committee with the most recent information available, and approved by the Department.

Accordingly, no changes will be made to the rule, as proposed, based on the comment received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, the comment received, and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 2000–2001 crop year begins on August 1, 2000, and this rule should be effective promptly because the order provides that the Committee meet on or before August 15 to compute and announce the trade demand, and the desirable carryout level is a necessary item in that calculation; (2) this action is a relaxation in that it will make more raisins available to handlers especially for use early in the season; (3) producers and handlers are aware of this action which was unanimously recommended by the Committee at a public meeting; and (4) a 60-day comment period was provided for in the proposed rule, and the comment received is addressed in this final rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.154 is amended by revising paragraph (a) to read as follows:

§ 989.154 Marketing policy computations.

(a) *Desirable carryout levels.* The desirable carryout levels to be used in computing and announcing a crop year's marketing policy shall be equal to the total shipments of free tonnage during August, September, and October for each of the past 5 crop years, for

each varietal type, converted to a natural condition basis, dropping the high and low figures, and dividing the remaining sum by three.

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Dated: July 11, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–18073 Filed 7–17–00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1140

[Docket No. DA–00–06]

Final Rule for Dairy Forward Pricing Pilot Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes a pilot program which exempts handlers regulated under the Federal milk order program from paying producers and cooperative associations the minimum Federal order price(s) for that portion of their milk for nonfluid use that is under forward contract. Establishment of the pilot program is required by a November 1999 amendment to the Agricultural Marketing Agreement Act of 1937 (AMAA).

EFFECTIVE DATE: July 19, 2000.

FOR FURTHER INFORMATION CONTACT:

Nicholas Memoli, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Programs, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address Nicholas.Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: This rule implements an amendment to the AMAA which directs the Secretary of Agriculture to establish a temporary pilot program for forward contracting of milk under Federal milk marketing orders. The effect of the amendment is to permit a handler to pay producers or cooperative associations a negotiated price, rather than the minimum Federal order price, for milk that is under forward contract, provided that such milk does not exceed the handler's nonfluid use of milk for the month. The amendment appears in Section 3 of H.R. 3428 of the 106th Congress, as enacted by Section 1001(a)(8) of Public Law 106–113 (113 Stat. 1536). It was signed into law on November 29, 1999. The

amendment specifies that the pilot program shall only apply to federally regulated milk that is not classified as Class I milk or otherwise intended for fluid use and that is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk. The pilot program expires December 31, 2004.

This pilot program does not invalidate, supersede, or otherwise change existing milk contracts between handlers and dairy farmers. Contracts eligible for this pilot program shall be those contracts beginning no earlier than the effective date of this final rule.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The pilot program is a voluntary program that does not require extensive preparation for those handlers and dairy farmers who choose to participate in it; and (2) most handlers and farmers desiring to participate in the program are anticipating the publication of this rule and would like to have their contractual transactions under the program effective as soon as possible.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect and will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to judicial challenge to the provisions of this rule.

Executive Order 12866

The Department is issuing this rule in conformance with Executive Order 12866. This rule is not economically significant for the purposes of Executive Order 12866.

The forward pricing pilot program is a voluntary program that will permit a handler and a producer to negotiate prices that, at times, may be below the minimum order prices that would otherwise apply to such milk. Some producers, proprietary handlers, and cooperative associations now negotiate forward contracts on part or all of their milk. The pilot program will expand the opportunities to engage in forward contracting by exempting participating proprietary handlers from the minimum prices to producers and cooperative associations required under Federal milk marketing orders. These

regulations do not affect the ability of cooperative associations to forward contract with their members.

The Regulatory Flexibility Act and the Effects on Small Businesses

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) considered the economic impact of this rule on small entities and has prepared this final regulatory flexibility analysis.

The legal basis for this rule is set forth in an amendment to the AMAA signed into law on November 29, 1999, that directs the Secretary of Agriculture to establish the dairy forward pricing pilot program. The Secretary was directed "to establish a temporary pilot program under which milk producers and cooperatives are authorized to voluntarily enter into forward price contracts with milk handlers."

The pilot program will provide the dairy industry, which has experienced substantial price volatility in recent years, with another tool to deal with such volatility. With the phase-down of the dairy price support program to a safety-net program, the prices of dairy products have fluctuated to a much greater extent than they did during the prior 20 years. This price fluctuation has created problems for processors of manufactured dairy products (*e.g.*, butter, nonfat dry milk, and cheese), the dairy farmers who supply these processors, and the retailers, school systems, and other public institutions who provide these products to consumers.

Under the Small Business Administration's definition, a dairy farm is a small business if it has annual gross revenues of less than \$500,000 and a handler is a small business if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

Based upon the most current information available, USDA identified as small businesses approximately 66,327 of the 71,716 dairy producers

(farmers) that had their milk pooled under a Federal order in January 2000. Thus, small businesses represent approximately 92.5 percent of the dairy farmers in the United States. On the processing side, there were approximately 1,200 plants associated with Federal orders in January 2000, and of these plants, approximately 720 qualify as "small businesses," representing about 60 percent of the total. At the present time, 142 cooperative associations represent 61,405 dairy farmers under the Federal milk order program. In addition, there were 10,311 dairy farmers who were not affiliated with any cooperative association in January 2000. Of these nonmember producers, 9,559 meet the SBA's definition of a small business.

The recordkeeping and reporting requirements for this rule are minimal. At the present time, any handler that enters into a forward contract with a producer presumably has written proof for such an arrangement. Under the pilot program, a handler will be required to submit a copy of each forward contract with a producer or a cooperative association to the market administrator of the order that regulates the milk. In addition, the handler will be required to attach a specific disclosure statement to each forward contract with each producer under the pilot program. The disclosure statement will have to be signed by each dairy farmer entering into a forward contract. The disclosure statement explains that a dairy farmer entering into a forward contract under the pilot program forfeits his or her right to receive the minimum order price(s) for that portion of their milk that is under contract for the duration of the contract period. These requirements are discussed further in the Paperwork Reduction Act section of this document.

In drafting the rule, the Department considered whether any limit should be established for the amount of milk that a dairy farmer could forward contract. We decided not to impose such a limit because we did not wish to interfere with a dairy farmer's desire to forward contract all of his or her milk. Also, in order to gain as much knowledge as possible about the types of forward contracts that might be offered by handlers, we believe it is beneficial to allow handlers and dairy farmers to decide between themselves how much milk to put under forward contract and how much milk to keep under minimum Federal order pricing.

Comments were specifically requested on the impact of this rule on small businesses. Many comments, particularly from dairy farmers and

cheese plant operators, stated that the pilot program would assist them in running their business. No comments were received from a small business stating that the pilot program would be a burden to them.

The Department does not believe that the forward pricing pilot program will unduly burden small entities or impair their ability to compete in the marketplace. In fact, by providing another tool to reduce price risk, the pilot program may aid small businesses in competing with larger entities that have the ability to use existing futures and options markets, and other means, to reduce their price risks.

Several provisions that were in the proposed rule have been modified or eliminated in response to those commenters who noted that these provisions could limit the ability of small businesses to participate in the pilot program. A provision that would have provided a 3-day period in which a forward contract could be canceled has been removed to facilitate hedging of forward contracts, and a provision limiting initial forward contracts to 6 months has been changed to 12 months to better reflect dairy farmers' budgeting practices. In addition, another change was made so that proprietary handlers that do not operate pool plants can participate in the program. These provisions are discussed in more detail in the discussion of the rules applicable to the pilot program.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Paperwork Reduction Act of 1995

The information collection requirements contained in this final rule were submitted to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) for emergency approval and such approval was granted. A separate 60-day notice seeking public comment on the information collection will be published after this final rule is issued. OMB has assigned this request No. 0581-0190.

Under the pilot program for the forward contracting of milk under Federal milk orders, a one-page disclosure statement was designed so that the Secretary's representatives administering the pilot program can be certain that dairy farmers have entered into the pilot program voluntarily. The disclosure statement is attached to a fact sheet containing general guidelines to help dairy farmers understand the forward contracting process. It also explains to the dairy farmer that the

program is voluntary and that by entering into the program with a handler, the dairy farmer will be forfeiting his or her right to the minimum prices provided under the order. The form should take no more than 15 minutes to be read, understood, and signed by a dairy farmer. We estimate that the number of dairy farmers involved would be approximately 8,000, and the total annual time burden would not exceed 2,000 hours.

Handlers will be required to submit their forward contracts under the pilot program to their respective market administrator's office. There are 2 reasons for this. First, the market administrator must be able to review the contract to ensure it is signed and to verify that it complies with the regulations provided here. Second, the Department is required to conduct a study of forward contracting under the pilot program to determine the impact on milk prices paid to producers in the United States. This study must be submitted to Congress no later than April 30, 2002. In order to do such a study, the Secretary will have to review, summarize, and evaluate the different types of contracts that were written under the pilot program.

The time required for handlers to prepare and submit copies of contracts would approximate 30 minutes per contract. If all of the nearly 1200 plants associated with Federal orders decide to forward contract under the pilot program, the total annual burden to submit these contracts would be 600 hours.

In the proposed rule, and as continued in this final rule, the disclosure statement described above must be submitted each time that a dairy farmer enters into a forward contract under the pilot program. Several commenters stated that this requirement was redundant and resulted in unnecessary paperwork. They suggested that the disclosure statement should only be required to be submitted the first time that a dairy farmer enters into a forward contract under the pilot program. Except for these comments with respect to the disclosure statement, no other comments were received that relate to paperwork reduction or information collection.

While we are concerned about burdening handlers with unnecessary paperwork, we do not believe that the very short disclosure statement specified in Section 1140.1(e) of this final rule would create such a burden. Furthermore, we are not convinced by the argument that producers need be

told only once that entering into a forward contract precludes them from receiving the order minimum prices for their milk. Forward contracting by producers is a significant departure from the historical regulatory environment. As such, it is essential that producers fully understand the consequences of entering into a voluntary contract that forfeits their right to receive minimum order prices for milk. By signing a disclosure statement for each contract, producers will be certifying that they have been given the opportunity to review the Forward Pricing Pilot Program Fact Sheet that describes the program, provides some advice, and cautions the producer to fully understand the terms and conditions of each contract.

Public Comments

A proposed rule was issued on February 25, 2000 (44 FR 10981). Interested parties were given 15 days to file written comments concerning the proposed rule. These comments were accepted by regular mail, e-mail, and by fax. A total of 97 comments were received. These comments came from—in order from most to least—dairy farmers, handlers, federal and state legislators, futures industry representatives, banking industry representatives, and other interested parties. All of the comments are available for viewing on our web site: www.ams.usda.gov/dairy/ for_contr_pilot.htm.

Discussion of Rules Applicable to Pilot Program

Under the rules adopted here to administer the pilot program, producer milk under forward contract with a handler in compliance with the rules will not be subject to a Federal milk order's minimum price requirements provided that such milk does not exceed the handler's Class II, III, and IV utilization of milk for the month in the market that regulates the milk. This rule contains a clarification in § 1140.2(a) to make it clear that in order to be eligible for exemption from minimum order pricing under this pilot program handlers must be in compliance with the program rules.

For convenience, a handler's combined Class II, III, and IV utilization is defined as the handler's eligible milk. In the case of a multi-plant handler, the handler's Class II, III, and IV utilization will be combined together for all of the handler's milk regulated under one order. A handler will only be exempt from paying the order's minimum price(s) on its quantity of eligible milk.

The determination of which producers' milk is over-contracted is left to the handler. If the handler fails to make this determination, the market administrator will prorate the over-contract milk to each producer and cooperative association having a contract with the handler.

Although handlers participating in the pilot program will not be required to pay producers and cooperative associations the order's minimum uniform or component prices for contract milk, they will still be required to account to the pool for all milk they receive at the respective order's minimum class prices. In the case of milk received by transfer from a cooperative association's pool plant, a handler may forward contract for all such transferred milk that is not used in Class I and will be exempt from paying the cooperative the minimum class prices for contract milk.

In the proposed rule (See § 1140.2(a)), forward contracting under the pilot program was restricted to a handler that operates "one or more pool plants." In this final rule, this has been changed to read "any handler defined in §§ 1000.9 and 1135.9." The language in the proposed rule would have excluded proprietary handlers that do not operate pool plants from participating in the pilot program. As noted by Kraft Foods in its comment, "this limitation is not in the statute creating the pilot program, and would unnecessarily exclude a number of handlers and producers from enjoying the benefits intended by Congress."

The language contained in the proposed rule would not have permitted forward contracting for many manufacturing plants that use pooled milk for their manufactured dairy products. In fact, many nonpool plants that receive producer milk by diversion from pool plants would have been unable to forward contract under the pilot program.

In providing for the forward contract pilot program, Congress provided handlers who forward contract with an exemption from paying the minimum Federal order price to producers with whom they have contracted. The November 1999 amendments to the Act did not permit handlers who manufacture Class II, III, and IV products to forward contract because any handler, even handlers with all Class I milk, could have forward contracted prior to the amendments. What the amendments did do, however, was excuse handlers from paying producers minimum order prices for Class II, III, and IV milk under forward contract.

The language in § 1140.2(a) for the proposed rule stated that only pool plant operators could forward contract and be exempt from minimum Federal order pricing. This language, however, does not take into consideration the complex marketing arrangements that exist between pool plants, cooperative association bulk tank handlers, and nonpool plants.

In many markets, milk of nonmember producers that is regularly received at a nonpool plant is actually pooled by a pool plant operator or by a cooperative association through its deliveries to a pool plant. The nonmember milk delivered to the nonpool plant is reported as producer milk diverted to a nonpool plant by the cooperative association on its monthly report of receipts and utilization to the market administrator. Alternatively, if a cooperative association is not involved in the transaction, such milk could be reported by a pool plant operator on its report.

Many nonpool plant operators that receive nonmember milk that is pooled through another handler issue checks to their nonmember producers. They submit their payrolls showing these payments to the market administrator. Nevertheless, these nonpool plant operators are not responsible under the order for paying their nonmember producers the minimum Federal order price; it is the handler—*i.e.*, either the cooperative association or pool plant operator—that pools the milk for them who would be held responsible for an underpayment.

In this final rule, only producer milk that is under forward contract with a handler in compliance with the rules provided here will be exempt from the order's minimum prices. In the case of nonmember milk that is reported as producer milk by a cooperative association handler or pool plant operator, but payrolled by a nonpool plant operator, the cooperative association or pool plant operator, respectively, will be held responsible for any underpayment to a nonmember producer in the event that milk under contract becomes subject to minimum order pricing (for instance, in the case of over-contracted milk). In this way, cooperative association handlers, pool plant operators, and nonpool plant operators may continue the complex arrangements that have evolved to pool milk under the Federal milk order program and all will be permitted to participate in the pilot program.

The language in § 1140.2(a) of this final rule has been modified to reflect the change from "handler that operates one or more pool plants" to simply

"handler." As defined in § 1000.9, handler includes not only the operator of a pool plant or a nonpool plant, but also a broker serving as a handler as provided in § 1000.9(b) and a cooperative association acting as a handler with respect to milk delivered to a pool plant or diverted to a nonpool plant. Finally, the term "handler" includes a proprietary bulk tank handler as defined in § 1135.9 of the Western order.

Any handler participating in the pilot program will still be required to file all of the reports that are now required under an order. This includes reports of receipts and utilization of milk and monthly payroll reports that show all information now required under the orders.

Handlers participating in the pilot program will have to submit to the market administrator a copy of each contract for which it is claiming exemption from the order's minimum pricing. This contract must be signed prior to the 1st day of the 1st month for which the contract applies and must be received by the market administrator by the 15th day of that month. For the first month that the pilot program is effective, contracts must be signed on or after the day on which the program becomes effective. For example, if the program becomes effective on July 17, contracts for August milk must be signed between July 17 and July 31 and must be in the market administrator's office by August 15.

It is the responsibility of each handler to give to each contracting dairy farmer or cooperative association a disclosure statement informing them of the nature of the pilot program and providing them with certain information that they should consider before entering into a forward contract. The disclosure statement must be signed on the same date as the contract by the dairy farmer or cooperative association representative and will have to be returned to the market administrator together with the contract by the 15th day of the month. Any contract that is submitted to the market administrator without the disclosure statement will be considered to be invalid for the purpose of being exempt from the order's minimum pricing and will be returned to the handler.

Several commenters objected to having to submit a disclosure statement each time they contract with a producer. They argued that attaching a disclosure statement to the first forward contract with a producer was sufficient and that having to do so with each succeeding contract involved unnecessary paperwork.

As noted earlier in the section dealing with the Paperwork Reduction Act, we do not believe that the very short disclosure statement specified in Section 1140.1(e) of this final rule would create such a burden. In fact, it is only one paragraph long and can easily be incorporated in the body of a forward contract itself or can be handled as a one-page supplement that may be attached to the forward contract.

In its proposed rule, the Department proposed 2 provisions to help dairy farmers adjust to the new program. One provision would have required that each forward contract under the pilot program contain a clause that gives a dairy farmer 3 days to change his or her mind about forward contracting their milk. The 2nd proposed provision would have limited the contract period for first-time contracts under the pilot program to 6 months. Both of these proposals were opposed by a majority of the commenters who addressed these issues.

Numerous commenters contended that these 2 provisions would be very damaging to the pilot program, even rendering it totally ineffective. One commenter who specializes in hedging price risks noted that the 3-day cancellation provision would severely constrain a handler in offsetting its risk if it had to wait for 3 days after signing a contract before it could safely hedge a price commitment that it had made 3 days earlier. With respect to the proposed rule limiting first-time contracts to 6 months, many commenters observed that a 6-month contract would not match up with a dairy farmer's budgeting process.

In response to those commenters who argued that having to wait 3 days would subject handlers to extraordinary, unreasonable price risk, we undertook a careful review of the options available to handlers for hedging such risk. In particular, we analyzed the costs associated with purchasing at-the-money put options in lieu of selling futures to hedge forward contracts during the 3 days when a forward contract could be canceled. We also looked at the costs incurred in selling futures and simultaneously purchasing an equivalent amount of at-the-money call options to hedge the price risks associated with entering into forward contracts during the 3 days when the contract could be canceled. Our analysis indicates that the costs of the 3-day cancellation provision could amount to between 10 and 15 cents per hundredweight. These costs would likely be passed on to producers in the form of lower contract prices which

could dampen any interest in the pilot program.

In proposing the 3-day cancellation clause for producers who enter into forward contracts under the pilot program it was our intent to help farmers adjust to the new program and to protect them from undue pressure in signing forward contracts. However, based on the comments and on our analysis it is clear that the 3-day cancellation provision would result in some additional costs to handlers who enter into forward contracts and hedge such contracts by using the futures market. Such costs could be passed on to producers in terms of lower forward contract prices. Therefore, while we continue to see merit in this provision, we must conclude that, on balance, the 3-day cancellation provision could work against the interests of dairy farmers by denying them the opportunity to utilize forward contracts under the pilot program. Accordingly, this provision has been removed from this final rule. Nevertheless, we will carefully monitor whether producers have been provided with adequate time and information before entering into forward contracts with handlers under the pilot program and will revisit this issue if necessary.

With respect to the 6-month forward contract restriction for producers forward contracting for the first time, we still believe that a restriction for first-time forward contracts would have merit. However, we are convinced by the comments submitted that the maximum contract length should be changed from 6 months to 12 months to be more consistent with budgeting and banking practices. After a producer has entered into his or her first forward contract under the pilot program, subsequent contracts could be written for longer periods of time.

A 3rd proposed provision that was widely opposed by commenters and received virtually no support would have required the basis for pricing milk under a forward contract to be the same as the basis for pricing milk that was not under forward contract. Specifically, in the 4 Federal orders with butterfat and skim milk pricing, forward contracts would have been required to be written in those terms, and in the 7 orders with component pricing of milk, forward contracts would have been required to be written in terms of those same components. This provision was proposed for 2 reasons. First, we thought such pricing would be more understandable to producers who had part of their milk subject to minimum order pricing and part of it subject to forward contract pricing. Second, we thought that such pricing would be

easier for producers to verify using testing data provided by the market administrator.

This proposal was seen by commenters to be unnecessarily limiting and an obstacle to effectively hedging contract prices, which may be based upon futures market prices that may not price each component of milk. Therefore, it has been removed. However, producers who are not members of a cooperative association should understand that their milk weights and tests will continue to be handled in the same way by the market administrator even if they choose to enter into a forward contract which prices their milk on a basis that differs from the order in which their milk is pooled. For example, if a producer under the Appalachian Order, which prices milk to dairy farmers on the basis of skim milk and butterfat, enters into a contract that prices milk on the basis of protein, butterfat, other solids, and somatic cell count, the producer will not receive data from the market administrator to compare against the buying handler's test data. If the producer wishes to verify these tests, he or she will have to do so at their own expense.

As proposed, payments specified under a forward contract must be made on the same dates as order payments which they replace. No comments were received in opposition to this provision and it should be carried forward for several reasons. First, nearly every handler entering into forward contracts would have some milk that is subject to minimum order pricing. It is highly unlikely that these handlers would establish a dual accounting and payment system even if they thought that different payment dates would be preferable to those specified under the order. Second, if handlers paid producers under contract at different times than producers not under contract, this disparate treatment could cause problems which might influence the success of the pilot program for reasons entirely apart from more predictable pricing. Third, from an administrative standpoint, it will be much easier to administer the pilot program if payments are made on the same day as minimum order payments.

Some commenters argued that the market administrator should enforce forward contract prices just as they do minimum order prices. Another comment stated that the regulations should enforce payment of all contracts.

The Act requires the Secretary to establish a forward pricing pilot program. Milk for nonfluid use which is covered by forward contracts under the

pilot program is exempt from the minimum price provisions of the orders. We do not believe it should be the role of the market administrator or the Department to determine the terms of forward contracts or to enforce negotiated prices. Payment for milk covered under forward contract is required to be made by the dates specified in § 1140.2(e) of the regulations.

Some commenters argued that allowing a handler to draw money from the producer-settlement fund and not pass it on to its producers could create disorderly marketing conditions. One commenter concluded that allowing a handler to keep the difference between the order's blend price and the contract price was an unjustified windfall to the handler.

This issue merits some discussion. Frankly, we do not know what form forward contracts will take under the pilot program. We do know the nature of some forward contracts prior to the pilot program. In the Upper Midwest, where much of the milk that is pooled is used for Class III use, many forward contracts provided for a Class III price plus a pool draw. If a handler was a cheese operation, the pool draw would equal the difference between the order's blend price and the Class III price.

It may be that this same formula will be the popular way to forward contract under the pilot program, but there are several variables that make this unclear. First, the pilot program applies to all Federal order markets, with Class I utilizations ranging from 90 percent to 10 percent. There is a significant difference in the pool draw between these extremes. Second, forward contracts may only cover milk used for Class II, III, or IV use. While a contract providing for a Class III price plus the pool draw might make sense for a cheese plant, it may not fit well with an ice cream or butter-powder operation.

Producers who are contemplating forward contracting should keep in mind that their benchmark price is the Federal order blend price. That is the minimum price that they would receive in the absence of a forward contract. Thus, it seems reasonable that when producers negotiate a forward contract price, they would hope to approximate, ideally, the minimum blend price plus applicable premiums averaged over the forward contract period.

As noted above, we do not know how handlers will arrive at forward contract prices. They could look at futures markets for guidance. A forward contract price could be a flat blend price approximation; it could be an average futures market cheese price plus a pool

draw; or, for a butter-powder operation, it could be an average future butter and powder price on a hundredweight basis plus a pool draw.

Over time, we would expect to see forward prices to producers below the blend price in some months and above the blend price in other months. When the contract price is below the blend price, the pool draw could accrue to the contracting handler. On the other hand, when the contract price is above the blend price, the contracting handler will have to supplement the pool draw to pay the producer the contract price. On balance, the pluses and minuses should cancel each other out since, one could argue, the desired objective of forward contracting is to remove the uncertainty and variability in prices, not to reduce a handler's cost by cutting its payments to producers. In fact, if producers continually find that they are losing money by forward contracting, it would seem illogical for them to continue to do so.

Some commenters also argued that handlers with forward contracts under the pilot program should be prohibited from excluding milk from regulation or, as it more commonly called, depooling milk.

This issue would by necessity involve amendments to Federal orders, unlike the pilot program, which involves no amendments to Federal orders. The depooling issue is really separate from forward contracting and is not appropriate for consideration in this informal rulemaking process.

Participation in the pilot program must be entirely voluntary on the part of dairy farmers and handlers. If the Department believes that the program is being used to coerce dairy farmers into signing contracts providing for prices that, on average, are consistently below minimum order prices, steps will be taken to halt such practices. One indication that such practices could be occurring would be complaints from dairy farmers that they were dropped because they refused to sign a forward contract with a handler. Another indication might be manifested by the replacement of one group of dairy farmers with another group of dairy farmers who have entered into forward contracts with the handler. It is conceivable that some farmers might intentionally enter into a forward contract that would consistently provide a price below the minimum order price simply to get their milk pooled on a particular market for possible future benefit. This type of activity would undermine the concept of minimum prices to dairy farmers and lead to the type of conditions that the AMAA was

enacted to remedy. Should these types of activities occur after the pilot program becomes effective, the Secretary would consider appropriate actions to halt such activities.

Many commenters, including several members of Congress, took issue with our reference to suspend or terminate the pilot program in the discussion part of the proposed rule. Other commenters, however, specifically welcomed the discussion of these contingencies.

It may be true, as one commenter stated, that it is unnecessary to state that the Secretary of Agriculture can terminate the pilot program if he finds that it is operating in conflict with the Agricultural Marketing Agreement Act. However, we see no harm in stating what may not be obvious to all pilot program participants: If the program is abused, steps will be taken to stop the abuse.

Therefore, based on the rationale set forth in the proposed rule and in this document we are adopting provisions of the proposal as a final rule, with the changes discussed in this document, as well as several technical changes made for clarity.

Additional information about the pilot program is included in the Department's program announcement. The information is also available on the Dairy Programs' web site (www.ams.usda.gov/fmor/index.htm) and is available from local market administrator offices.

For the reasons set forth in the preamble, Title 7 of Chapter X of the CFR is amended by adding a new Part 1140 as follows:

PART 1140—DAIRY FORWARD PRICING PILOT PROGRAM

Subpart A—Definitions

Sec.

1140.1 Definitions.

Subpart B—Rules Governing Forward Contracts

1140.2 Rules governing forward contracts.

Authority: 7 U.S.C. 601 *et seq.*

Subpart A—Definitions

§ 1140.1 Definitions.

(a) *Pilot program* means the dairy forward pricing pilot program provided by an amendment to the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 *et seq.*) signed into law on November 29, 1999 (Section 3 of H.R. 3428 of the 106th Congress, as enacted by section 1001(a)(8) of Public Law 106–113 (113 Stat. 1536)).

(b) *Eligible milk* means the quantity of milk equal to the contracting handler's Class II, III, and IV utilization of

producer milk, in product pounds, during the month, combining all plants of a single handler regulated under the same Federal order.

(c) *Forward contract* means an agreement covering the terms and conditions for the sale of milk from a producer defined in §§ 1001.12, 1005.12, 1006.12, 1007.12, 1030.12, 1032.12, 1033.12, 1124.12, 1126.12, 1131.12, and 1135.12, or a cooperative association defined in § 1000.18, and a handler defined in § 1000.9 or 1135.9.

(d) *Contract milk* means the producer milk covered by a forward contract.

(e) *Disclosure statement* means the following statement which must be signed by each producer entering into a forward contract with a handler before the market administrator will recognize the terms and conditions provided in such contract.

Disclosure Statement

I am voluntarily entering into a forward contract with [handler's name]. I have been given a copy of the contract and I have received the USDA's Pilot Program Fact Sheet to which this disclosure statement was attached. By signing this form, I understand that I am forfeiting my right to receive the order's minimum prices for that portion of my milk that is under forward contract for the duration of the contract. I also understand that my milk will be priced in accordance with the terms and conditions of the contract.

Printed Name:

Signature:

Date:

Address:

Producer No:

(f) *Other definitions.* The definition of any term in parts 1000–1135 of this chapter apply to, and are hereby made a part of, this part.

Subpart B—Rules Governing Forward Contracts

§ 1140.2 Rules governing forward contracts.

(a) Any handler defined in §§ 1000.9 and 1135.9 may enter into forward contracts with producers or cooperative associations for the handler's eligible milk. Milk under forward contract in compliance with these rules will be exempt from the minimum payment provisions that would apply to such milk pursuant to §§ 1001.73, 1005.73, 1006.73, 1007.73, 1030.73, 1032.73, 1033.73, 1124.73, 1126.73, 1131.73 and 1135.73 for the period of time covered by the contract.

(b) A forward contract with a producer or cooperative association participating for the first time in this pilot program may not exceed 12 months. In no event shall a forward contract executed pursuant to this part extend beyond December 31, 2004.

(c) Forward contracts must be signed and dated by the contracting handler and producer (or cooperative association) prior to the 1st day of the 1st month for which they are to be effective and must be in the possession of the market administrator by the 15th day of that month.¹ The disclosure statement provided in § 1140.1(e) must be signed on the same date as the contract by each producer entering into a forward contract under the pilot program, and this signed disclosure statement must be attached to each contract submitted to the market administrator.

(d) In the event that a handler's contract milk exceeds the handler's eligible milk for any month in which the specified contract price(s) are below the order's minimum prices, the handler must designate which producer milk shall not be contract milk. If the handler does not designate the suppliers of the over-contracted milk, the market administrator shall prorate the over-contracted milk to each producer and cooperative association having a forward contract with the handler.

(e) Payments for milk covered by a forward contract must be made on or before the dates applicable to payments for milk that is not under forward contract under the respective Federal order.

(f) Handlers participating in the pilot program will continue to be required to file all reports that are currently required under the respective marketing orders and will continue to be required to account to the pool for all milk they receive at their respective order's minimum class prices.

(g) Nothing in this part shall impede the contractual arrangements that exist between a cooperative association and its members.

Dated: July 13, 2000.

Kathleen A. Merrigan,
Administrator, Agricultural Marketing Service.

[FR Doc. 00-18113 Filed 7-17-00; 8:45 am]

BILLING CODE 3410-02-P

¹Contracts that have been signed prior to the effective date of these rules are invalid under the pilot program.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900, 917, 926, 944, 950, 952, 961 and 980

[No. 2000-34]

RIN 3069-AA97

Federal Home Loan Bank Advances, Eligible Collateral, New Business Activities and Related Matters

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its Advances Regulation and other regulations to implement the requirements of the Federal Home Loan Bank System Modernization Act of 1999 by: allowing the Federal Home Loan Banks (Banks) to accept from community financial institution (CFI) members new categories of collateral to secure advances; expanding the purposes for which the Banks may make long-term advances to CFI members; and removing the limit on the amount of a member's advances that may be secured by other real estate-related collateral. The Finance Board also is making related and other technical changes to its regulations on General Definitions, Powers and Responsibilities of Bank Boards of Directors and Senior Management, Federal Home Loan Bank Housing Associates, Community Support Requirements, Community Investment Cash Advance Programs and Standby Letters of Credit, and adopting a new regulation on New Business Activities.

DATES: The final rule is effective on August 17, 2000.

FOR FURTHER INFORMATION CONTACT:

James L. Bothwell, Director, (202) 408-2821, Scott L. Smith, Deputy Director, (202) 408-2991, or Julie Paller, Senior Financial Analyst, (202) 408-2842, Office of Policy, Research and Analysis; or Eric E. Berg, Senior Attorney-Advisor, (202) 408-2589, Eric M. Raudenbush, Senior Attorney-Advisor, (202) 408-2932, or Sharon B. Like, (202) 408-2930, Senior Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

A. Historical Benefits of Federal Home Loan Bank System

The Federal Home Loan Bank System (Bank System) comprises twelve regional Banks that are instrumentalities

Appendix C

Forward Pricing Pilot Program Fact Sheet and Disclosure Statement

and

Questions & Answers Concerning Pilot Forward
Contracting Pricing Program

Forward Pricing Pilot Program Fact Sheet and Disclosure Statement
Agricultural Marketing Service, U.S. Department of Agriculture

1. The Forward Pricing Pilot Program is a voluntary program that allows dairy farmers and handlers buying their milk to enter into forward contracts for that portion of milk that the handler uses for nonfluid milk products. Dairy farmers are under no obligation to participate in this program and may continue to have their milk priced under the order's minimum payment provisions. If a handler pressures a dairy farmer to sign a forward contract, this should be reported to the market administrator immediately.
2. By entering into a forward contract with a handler, a dairy farmer gives up the right to receive the minimum Federal order prices for the amount of their milk under contract.
3. The first forward contract involving a dairy farmer or cooperative association that is participating in the pilot program for the first time is restricted to 12 months. Thereafter, subsequent contracts may be of unlimited duration provided that they do not extend beyond the pilot program termination date, December 31, 2004.
4. Dairy farmers entering into a forward contract should understand all of the terms of the contract, including how their milk will be priced, the length of the contract, and any charges or deductions that will made. If a formula will be used to price your milk, you should understand how the formula works and what factors affect its movement. You should understand what will happen if you cannot fulfill the terms of the contract. What may you be liable for? You should also understand what remedies are available to you if the processor defaults on the contract.
5. The terms and conditions of a contract must be in writing. If you and the handler to whom you deliver your milk renegotiate or modify any terms of the contract, the changes must be put in writing as an amendment to the contract and submitted to the market administrator. The contract should contain a clause explaining how disagreements will be settled.
6. Market administrators will continue to be responsible for verifying the accuracy of the weights and tests of your milk on the same basis as if your milk was subject to Federal order pricing. If you should choose to price components of your milk that are not tested for and priced under the order in which your milk is pooled, you will have to arrange for private testing of your milk to verify the buying handler's weights and tests.
7. The following disclosure statement must be signed by each dairy farmer that enters into a forward contract with a handler under the pilot program. The disclosure statement must be attached to each contract submitted to the market administrator. Contracts that are submitted without the disclosure statement will be considered to be invalid for the purpose of exempting a handler from an order's minimum pricing provisions. Forward contracts must be signed by the producer and handler prior to the first day of the month for which they are effective and must be in the possession of the market administrator by the 15th day of that month.

Disclosure Statement

I am voluntarily entering into a forward contract with _____ (handler's name). I have been given a copy of the contract and I have received the USDA's Pilot Program Fact Sheet to which this disclosure statement was attached. By signing this form, I understand that I am forfeiting my right to receive the order's minimum prices for that portion of my milk that is under contract for the duration of the contract. I also understand that my milk will be priced in accordance with the terms and conditions of the contract.

Printed Name: _____

Signature: _____

Date: _____

Address: _____

Producer No. _____

Questions & Answers Concerning Pilot Forward Contract Pricing Program

Q: Will all dairy farmers be guaranteed an opportunity to participate in this pilot program?

A: In order to participate in this program, two things are necessary. First, the handler to which a dairy farmer delivers milk must be willing to offer the dairy farmer a forward contract. Second, the handler must have non-fluid uses of milk--i.e., butter, powder, cheese, ice cream, yogurt, etc.--to cover the quantity of milk under forward contract.

Q: Can a handler force a producer to enter into a forward contract?

A: A handler cannot force a producer to enter into a forward contract. The Consolidated Appropriations Act 2000 (i.e., Section 3 of H.R. 3428 of the 106th Congress, as enacted by Section 1001(a)(8) of Public Law 106-113), gives the Secretary of Agriculture the authority to implement this pilot program. If the program is abused, the Secretary will take appropriate remedial action.

Q: How do we know that a producer has “voluntarily” entered into a forward contract with a handler?

A: Before a handler can be exempt from paying a producer the Federal order's minimum price(s), the market administrator must have a signed copy of a forward contract with both the handler's and producer's signatures. The contract must be signed prior to the first day of the month for which it is to be effective and must be in the possession of the market administrator by the 15th day of the month. In addition, attached to each contract must be a disclosure statement signed by the dairy farmer or cooperative association representative entering into the forward contract.

Q: Is there any restriction concerning the length of a forward contract?

A: A contract with a producer or cooperative association participating for the first time under the pilot program is limited to 12 months. Thereafter, any contract under the pilot program involving this producer or cooperative association may be unlimited in length provided that it does not extend beyond the pilot program termination date, December 31, 2004.

Q: Can a producer enter into a forward contract with more than one handler?

A: Yes.

Q: Will the market administrator verify the weights and tests of milk under forward contract?

A: The market administrator will verify the weights and tests of milk of producers who are not members of a cooperative association in the same manner as would be done if the milk were not under contract.

Q: What happens if, after a handler has entered into forward contracts, the handler's non-fluid use drops below the amount of milk covered by forward contracts?

A: If this should happen and the contract price exceeded the order's minimum price(s) for the month, the issue would be moot and the handler would continue to pay the producer the agreed-upon contract price for the milk covered by the contract. If, on the other hand, the contract price was below the order's minimum price(s) for the month, the handler would be required to pay the higher minimum price(s) for the quantity of over-contracted milk.

Q: In the situation just described, who determines which producers get the higher minimum order price for their over-contracted milk?

A: This determination is left to the handler. If the handler fails to indicate which milk is over-contract milk, the market administrator will prorate the quantity of over-contract milk to each producer and cooperative association having a forward contract with the handler.

Q: Can a handler enter into a forward contract with a cooperative association?

A: Yes.

Q: Can a forward contract between a handler and a cooperative association cover milk transferred from the cooperative association's plant?

A: Forward contracts can apply to bulk milk or milk components transferred from a cooperative association's plant.

Q: How will a handler's Class II, III, and IV utilization be determined?

A: Each month the market administrator will combine all of the handler's reported Class II, III, and IV utilization for all of the handler's plants receiving producer milk under the specific order.

Q: Will a handler's forward contracts with producers relieve the handler of responsibility for supplying the market with milk for fluid use if the market administrator increases shipping requirements for supply plants, balancing plants, and/or a system of supply plants?

A: No, any handler operating a pool plant will be responsible for meeting the order's pooling requirements regardless of the impact such requirements may have on a handler's outstanding forward contracts. This responsibility would extend to any modification of shipping requirements resulting from a market administrator's adjustment of such requirements under the order.

Q: Will market administrators enforce payment of the contract price for milk covered by forward contracts?

A: No, market administrators will only enforce payment of the minimum order prices provided under the order for milk that is not subject to a forward contract.

Q: For that portion of their milk covered by forward contracts, will handlers still be subject to the order's classified pricing system?

A: Yes, even though a handler has forward contracted for a portion of its milk supply at a price that is higher or lower than the minimum order price, the handler will still be required to account for all of its milk receipts at the classified prices provided by the order and will still be required to make a payment into the producer-settlement fund if its classified use value exceeds the marketwide average. On the other hand, if a handler's classified use value is below the marketwide average, the handler will draw a payment out of the producer-settlement fund at the difference between its classified use value and the value of the milk at the marketwide average use value.

Q: For milk under forward contract, will a handler have to make partial and final payments by the dates required under the order?

A: Milk under forward contract will not be subject to the amount of payment specified under the order but contract payments will be required to be made on the same day as minimum order payments are required to be made.

Q: Can the components of milk under forward contract be priced on a different basis than the components of milk that is subject to minimum Federal order pricing?

A: Yes, milk under forward contract can be priced any way that the handler and producer mutually agree upon.

Q: Why restrict forward contracting to milk that is not used for fluid use?

A: This restriction was specified by the legislative amendment.

Q: Will market administrators have any role in reviewing or approving forward contracts?

A: Market administrators will review a forward contract to be certain that it is in compliance with the rules governing the pilot program. They will ensure that the contract is signed by both parties and will make certain that a signed disclosure statement is attached to each contract entered into by a dairy farmer under the pilot program. Other than reviewing the contract for these items, the market administrator will not comment on or seek to change a contract that has been approved between a producer and a handler.

Appendix D

Computation of Prices for Dairy Forward Pricing Pilot Program Study

Computation of Prices for Dairy Forward Pricing Pilot Program Study

The method used to compare prices for contracted milk is outlined below. Prices are calculated for contracted milk at test—the contract price; for the same milk had it not been contracted—the non-contract price; and for the same milk had it been priced under the Federal order—the Federal order minimum price. The method applies equally well to the variety of methods in pricing and quantifying contract milk and components found in Dairy Forward Pricing Pilot Program forward contracts.

As noted in the discussion, handlers have used a wide variety of methods in pricing and quantifying contract milk and components. This raises some difficulties in aggregating data to compute average prices. This is further complicated by the fact that payroll data provided by handlers usually does not distinguish between contract and non-contract milk for the producers who have part of their milk under contract.

The approach is to first calculate the non-contract value of all milk delivered by each contracting producer by applying the handler's prices for milk components and the handler's PPD to the milk delivered. The non-contract price per hundredweight is calculated by dividing this value by total milk delivered. The non-contract value is then subtracted from the total gross value paid before deductions, yielding the value attributed to the contract. This contract value is divided by contract volume to yield the contract value per hundredweight. The contract price per hundredweight is the sum of the non-contract price and the contract value per hundredweight. The key assumption is that the PPD and premium paid by the handler apply to both contracted and non-contracted milk. Similarly, the Federal order minimum price per hundredweight is calculated for the milk using the Federal order prices adjusted for location and the producer's milk tests.

Price Calculations

The price computation for non-contract milk is straightforward. Participating handlers usually use pricing formulas that are the same or similar to Federal milk marketing order (FMMO) minimum pricing formulas. For example, in an order with component pricing, most handlers pay a producer price differential (PPD), butterfat price, protein price, other solids price, and a somatic cell count adjustment. These component prices, which may or may not be the same as the FMMO minimum prices, have been provided to the market administrator offices. In our example, handler component prices are the same, but the PPD paid by the handler is less than the Federal order PPD adjusted for location. Handlers often pay premiums in addition to component prices. Although in most cases handlers have not provided their formulas for premiums to the market administrator, the total premium paid to each producer has been provided. To determine if a handler has met FMMO minimum pricing requirements for non-contract milk, the price at test per hundredweight, including the premium, is compared to the FMMO minimum blend price at test.

Payroll data provided by handlers includes the gross value of the milk before deductions for hauling, promotion, and marketing charges. It also provides pounds of milk delivered and the component tests. Since we have information necessary to compute non-contract milk prices at test, we can calculate a gross value before deductions that a forward-contracting producer would have received had there been no contract. We attribute to the contract the difference between this computed gross value and the gross value that the producer actually received. From the contract, we know the contract pounds. We can therefore derive a price received, at test, for contract milk.

The following example serves as an illustration:

Payroll Information

Gross value on payroll for all milk, before deductions for hauling, promotion, and marketing charges	\$11,770.18
---	-------------

Total pounds	86,305 lbs.
Contract pounds	40,000 lbs.
Butterfat pounds	3,219 lbs.
Protein pounds	2,563 lbs.
Other solids pounds	4,919 lbs.
Somatic cell count adjustment	\$77.67
Premium	\$516.53

Non-contract prices paid by handler

PPD	\$0.7100 per cwt.
Butterfat price	\$1.3817 per pound
Protein price	\$2.0884 per pound
Other solids price	\$0.0965 per pound

Federal Minimum order prices

Same as handler's non-contract prices in this example, except that the Federal order minimum PPD adjusted for location is \$0.7600.

Computation of gross value of all milk had there been no contract

Handler's PPD value	(\$0.71 X 86,305 lbs.) / 100 =	\$ 612.77
Butterfat value	\$1.3817 X 3,219 lbs. =	4,447.69
Protein value	\$2.0884 X 2,563 lbs. =	5,352.57
Other solids value	\$0.0965 X 4,919 lbs. =	474.68
Somatic cell count Adjustment		77.67
Premium		516.53
Non-contract gross value before deductions for hauling, promotion and marketing		<u>\$11,481.91</u>

Computation of Federal order minimum gross value of all milk had there been no contract.

PPD value	(\$0.76 X 86,305 lbs.) / 100 =	\$ 655.92
Butterfat value	\$1.3817 X 3,219 lbs. =	4,447.69
Protein value	\$2.0884 X 2,563 lbs. =	5,352.57
Other solids value	\$0.0965 X 4,919 lbs. =	474.68
Somatic cell count Adjustment		<u>77.67</u>
Federal order minimum non-contract gross value before deductions for hauling, promotion and marketing		<u>\$10,533.85</u>

Handler's milk price at test before deductions had there been no
contract:

$$\text{Gross value} \quad \text{total pounds} \\ (\$11,481.91 \quad / \quad 86,305) \quad X \quad 100 = \underline{\$13.30}$$

Federal Order minimum blend price at test before deductions
had there been no contract:

$$\text{Gross value} \quad \text{total pounds} \\ (\$10,533.85 \quad / \quad 86,305) \quad X \quad 100 = \underline{\$12.21}$$

Computation of price received for contract milk at test:

Gross value for all milk received, before deductions	\$11,770.18
Gross value of all milk had there been no contract	<u>11,481.91</u>
Difference attributed to contract	\$ 288.27

Difference per cwt. attributed to contract:

$$(\$288.27 \quad / \quad 40,000 \text{ contract lbs.}) \quad X \quad 100 = \quad \$0.72$$

Computed price received for contract milk at test:

Milk price at test had there been no contract	\$13.30
Difference attributed to contract	0.72
Computed price received for contract milk at test	<u>\$14.02</u>

This method of computing the price received for non-contract milk assumes that the producer price differential and premium are calculated identically for contract and non-

contract milk. In other words, we assume that there is no price discrimination relevant to the producer price differential and the premium with respect to contract v. non-contract milk. Some contracts state, for example, that a producer will be paid "all applicable premiums," without any further details. Such language may leave room for some error in this assumption. We also assume that the component proportions for contract milk are the same as that for non-contract milk.

We can now compute a gross value of contract milk, a gross value of contract milk had there been no contract, and a gross value of contract milk if the Federal order minimum blend price had been applicable:

Gross value of contract milk:

$$\begin{array}{rcl} \text{Contract pounds} & \text{Contract price per cwt.} & \text{Gross value of contract milk} \\ (40,000 & X & \$14.02) & / 100 = & \$5,608 \end{array}$$

Gross value of contract milk had there been no contract:

$$\begin{array}{rcl} \text{Contract pounds} & \text{Non-contract price per cwt.} & \text{Gross value of contract milk} \\ (40,000 & X & \$13.30) & / 100 = & \$5,320 \end{array}$$

Gross value of contract milk if the Federal order minimum blend price had been applicable:

$$\begin{array}{rcl} \text{Contract pounds} & \text{Federal order minimum} & \text{Gross value of contract milk at} \\ & \text{blend price per cwt.} & \text{Federal order minimum blend price} \\ (40,000 & X & \$12.21) & / 100 = & \$4,884 \end{array}$$

To compute the average contract price per hundredweight for a month or signing-delivery quarter combination, we total the gross value of contract milk for all of the producers, divide by contract pounds, and multiply by 100. Actual stated contract prices usually do not include premiums or PPDs. They are usually in addition to the contract price. Since we do not use actual contract prices to compute this average price, our computed price is technically the average price received for contract milk rather than the average contract price. For ease of reading, however, we call it the average contract price.

To obtain a valid comparison of the contract price to the non-contract price for a month or signing-delivery quarter combination, we total the gross value had there been no contract for all of the producers, divide by contract pounds, and multiply by 100. We then get the average price of contract milk had there been no contract. This is not the average price paid for non-contract milk since we have weighted the price with contract pounds instead of non-contract pounds. For ease of reading, however, we call it the average non-contract price. We follow the same procedure for the Federal order minimum blend price.

To compute average contract, non-contract, and Federal order minimum blend prices for the study period, we compute simple averages of the weighted monthly averages as described above.

Appendix E

Producer Questionnaire,

Plant Questionnaire,

and

Cooperative Questionnaire

FORWARD CONTRACTING PILOT PROGRAM STUDY PRODUCER QUESTIONNAIRE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0190. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410, or call 202-720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

AMS Control Number

TO BE COMPLETED BY ALL PRODUCERS:

1. Pounds of milk produced and marketed per month during the past year:

- Less than 100,000 pounds.
- 100,000 to 400,000 pounds.
- 400,000 to 1,000,000 pounds.
- More than 1 million pounds.

2. My farm delivers to a plant/handler regulated under Federal Milk Order Name _____, or Number

3. My farm is located in (State)

4. How many potential buyers for your milk did you have during the past year?

- One.
- Two or three.
- Four or more.

5. Have you used forward contracts, futures contracts, or options to protect yourself against price changes in: (Select all that apply.)

- Feed?
- Fuel or energy?
- Cull cows?
- Milk (other than through the *Forward Contracting Pilot Program*)?

6. The handler receiving your milk:

- Offered forward contracts to *all* producers.
- Offered forward contracts to *some* producers.
- Offered forward contracts to *no* producers.
- Do not know.

7. Did you sign a contract as part of the *Forward Contracting Pilot Program*?

- Yes. (Skip 8 and 9 below. Proceed to questions 10 through 14.)
- No. (Proceed to question 8.)

COMPLETE ONLY IF YOU DID NOT SIGN A FORWARD CONTRACT UNDER THE FORWARD CONTRACTING PILOT PROGRAM:

8. If you did not sign a forward contract under the *Forward Contracting Pilot Program*, please mark all of the following statements that apply to you.

- My handler did not offer forward contracts, and I did not want to change handlers.
- I thought that the market price would be higher than the contract price offered.
- I heard about the contract offer too late to contract.
- I probably will sign a forward contract in the near future.
- I wished to sign a forward contract, but my handler denied a contract to me. (If you check this box, please answer question 9. Otherwise, stop here.)

9. If you were denied a contract even though your handler had contracts with other producers, what was the reason(s)?

- Volume too small.
 - I was too late. Contracts were offered on a “first come, first serve” basis.
 - Quality problems.
 - Other. Please specify:
-

COMPLETE ONLY IF YOU SIGNED AT LEAST ONE FORWARD CONTRACT UNDER THE FORWARD CONTRACTING PILOT PROGRAM:

10. What were your reasons for signing a forward contract? (Select all that apply.)

- To assure a more stable cash flow.
 - To satisfy lender requirement.
 - Attractive contract price.
 - To maintain a relationship with my current buyer.
 - Other, please specify:
-

11. What information did you rely upon to determine a suitable contract price? (Select all that apply.)

- Discussions with neighbors.
 - USDA, university, and/or private price forecasts.
 - Futures market prices.
 - Comparison to other forward contract price offers.
 - My own analysis of my cost of production and my own price forecast.
 - Other, please specify:
-

12. Although the *Forward Contracting Pilot Program* is voluntary, I felt it necessary to contract in order to retain a relationship with my current buyer?

- Strongly agree.
- Slightly agree.
- Don't know.
- Slightly disagree.
- Strongly disagree.

13. If your contract price was less than the relevant comparison price (Class III price, blend price, etc.) during the contract period, how will this affect your future contracting decisions?

- Probably will not forward contract again.
- Probably will reduce the amount of milk production I forward contract.
- Will have no effect as I evaluate the next contract.
- Not applicable. My contract price was greater than the relevant comparison price during the contract period.

14. If you contracted to reduce price volatility and the contract price was less than the relevant comparison price during the contract period, do you consider the difference to be a reasonable tradeoff for the price risk you avoided?

- Yes, it was reasonable.
- No, it was too large.
- Not applicable. My contract price was greater than the relevant comparison price during the contract period.

FORWARD CONTRACTING PILOT PROGRAM STUDY PLANT QUESTIONNAIRE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0190. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410, or call 202-720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

AMS Control Number

TO BE COMPLETED BY ALL PLANTS:

1. Of the milk you pool under Federal orders, what annual percentage falls into each class?

Class I	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.
Class II	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.
Class III	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.
Class IV	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.

2. Total pounds of milk pooled per month during the past year:

- Less than 10 million pounds.
- 10 to 20 million pounds.
- 20 to 30 million pounds.
- More than 30 million pounds.

3. The plant is generally regulated under Federal Milk Order Name _____, or Number

--	--	--

4. The plant is located in (State)

--	--

5. The plant is owned by:

- A single dairy plant firm.
- A multiple dairy plant firm. If so, please enter the number of dairy plants owned by the firm?

--	--	--

AMS Control Number

6. If your primary use is Class I, how has the *Forward Contracting Pilot Program* affected your ability to attract a supply of milk for Class I uses?

- Made it easier.
- Unchanged.
- Made it harder.
- Not applicable.

7. How has the *Forward Contracting Pilot Program* affected your ability to attract a supply of milk for manufacturing (Class II, III, or IV) uses?

- Made it easier.
- Unchanged.
- Made it harder.
- Not applicable.

8. With regards to your plant's dairy operation, have you used forward contracts, futures, or options to protect against price changes in: (Select all that apply.)

- Fuel or energy.
 - Labor.
 - Dairy product markets.
 - Milk (other than through the *Forward Contracting Pilot Program*)
 - Other, please specify:
-

9. Did you offer contracts under the *Forward Contracting Pilot Program*?

- Yes. (Skip number 10. Answer questions 11 through 15.)
- No. (Answer only question 10 below.)

COMPLETE ONLY IF YOU DID NOT OFFER FORWARD CONTRACTS UNDER THE FORWARD CONTRACTING PILOT PROGRAM

10. If you did not offer forward contracts under the *Forward Contracting Pilot Program* to your producers, please mark all of the following that apply.

- The competition did not offer forward contracts.
- Producers were not interested in forward contracting.
- Most of our milk is used for Class I purposes and is therefore ineligible for contracting under the pilot program.
- We offer forward contracts outside of the pilot program that are therefore subject to federal order minimum price requirements.
- Other, please specify:

-
- The plant likely will offer forward contracts in the near future.

COMPLETE ONLY IF YOU OFFERED FORWARD CONTRACTS UNDER THE FORWARD CONTRACTING PILOT PROGRAM

11. Did you offer the same contract terms to all producers?

- Yes.
- No.

12. For contracts offered, did you: (Select all that apply)

- Accept first those contracts from large producers?
- Accept first those contracts for 100 percent of production?
- Accept all contracts in order of receipt without regard to contract volume?
- Accept for other reason? Please specify:

-
- No producers accepted contracts offered.

13. How did you cover your accepted contracts? (Select all answers that apply.)

- Long-term contract to sell manufactured products
- Used the Futures and Options markets.
- Self-protected.

14. Would you continue to offer forward contracts if the program were continued beyond December 2004?

- Yes.
- Only if necessary to meet competition.
- No.
- Don't know.

15. Did you sell more of your finished product under long-term contracts with buyers because you were able to forward contract a milk supply?

- No.
- Less than 25 percent more.
- From 25 to 50 percent more.
- 50 percent or more.

**FORWARD CONTRACTING PILOT PROGRAM STUDY
COOPERATIVE QUESTIONNAIRE**

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to, respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0190. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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AMS Control Number

TO BE COMPLETED BY ALL COOPERATIVES

1. Total pounds of milk handled per month during the past year:

- Less than 10 million pounds.
- 10 to 50 million pounds.
- 50 to 250 million pounds.
- 250 to 500 million pounds.
- More than 500 million pounds.

2. Of the milk you pool under Federal orders, what percentage falls into each class?

Class I	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.
Class II	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.
Class III	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.
Class IV	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			%.

3. Of the milk you pool under Federal orders, what annual percentage is pooled in each order? Please enter percentages adding to 100%.

Northeast	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				Appalachian	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td></tr></table>			Florida	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				
Southeast	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				Upper Midwest	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				Central	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>			
Mideast	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				Pac. Northwest	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				Southwest	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>			
AZ-Las Vegas	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>				Western	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td> </td><td> </td><td> </td></tr></table>								

AMS Control Number

4. Has the cooperative used forward contracts, futures market contracts, or options to protect itself against price changes in: (Select all that apply.)

- Feed?
- Fuel or energy?
- Labor?
- Dairy product markets?
- Milk (other than through the *Forward Contracting Pilot Program*)?

5. Has the cooperative offered forward contracts to members?

- Yes. (If yes, proceed to question 6.)
- No. (If no, skip question 6. Proceed to question 7.)

6. If the cooperative has offered forward contracts to its members, has the *Forward Contracting Pilot Program*: (Select all that apply)

- Made it easier to offer forward contracts to your members?
- Encouraged you to offer forward contracts to your members?
- Made it necessary for you to offer forward contracts to your members to meet competition?
- Had little or no effect on the cooperative's ability or need to forward contract with its members?

7. With how many of your buyers have you signed a contract as part of the *Forward Contracting Pilot Program*?

- None. (If you answer "None," stop here.)
- One.
- 2 or 3.
- 4 or 5.
- More than 5.

COMPLETE ONLY IF THE COOPERATIVE SIGNED FORWARD CONTRACTS UNDER THE PILOT PROGRAM

8. What were the reasons for signing a forward contract(s) to sell your members' milk? (Select all that apply.)

- To cover forward contracts with member producers.
 - To assure a market for a portion of the members' milk.
 - To lock in an attractive price.
 - To maintain a relationship with a buyer.
 - Other, please specify:
-

9. What information did you rely upon to determine a suitable contract price? (Select all answers that apply.)

- USDA, university, and/or private price forecasts.
 - Futures market prices.
 - Comparison to other forward contract price offers.
 - Our own price forecast.
 - Other, please specify.
-

Appendix F

**Monthly Price Comparisons:
Contract and Non-Contract Milk Prices**

Table F-1: Average Monthly Prices for Contracted Milk Volumes in Seven Orders^{1/}: With Contract, Without Contract, and at FMMO Minimum Prices^{2/}

Year and Month	Contract milk delivered and pooled <i>1000s lbs</i>	Weighted average prices at test			Price differences	
		Contract price	Non-contract price (had there been no contract)	Federal order minimum blend price	Contract minus non-contract	Contract minus Federal order blend price
			<i>\$/cwt.</i>	<i>\$/cwt.</i>	<i>\$/cwt.</i>	<i>\$/cwt.</i>
2000						
2000	Sept.	46,592.3	14.029	13.088	11.821	0.941
	Oct.	51,287.6	14.273	13.127	11.416	1.146
	Nov.	53,143.8	14.786	12.039	10.829	2.747
	Dec.	54,456.4	14.671	12.725	11.502	1.946
2001	Jan.	127,384.0	14.009	12.860	11.656	1.149
	Feb.	126,135.4	13.821	13.052	11.729	0.769
	Mar.	144,748.2	13.858	14.154	12.754	-0.296
	Apr.	176,840.5	13.569	14.544	13.326	-0.975
	May	142,175.4	13.396	16.053	14.803	-2.657
	June	151,544.5	13.406	16.911	15.604	-3.506
	July	169,016.0	13.382	17.104	15.787	-3.722
	Aug.	195,752.7	13.226	17.013	15.961	-3.786
	Sept.	205,016.2	13.819	17.753	16.683	-3.934
	Oct.	170,891.6	14.046	16.646	15.501	-2.600
	Nov.	195,199.0	14.308	14.060	13.338	0.248
	Dec.	199,839.9	13.774	13.777	12.832	-0.003
2002	Jan.	86,514.1	14.666	14.084	12.955	0.582
	Feb.	74,383.1	14.855	13.890	12.664	0.965
	Mar.	100,636.4	14.450	12.843	11.926	1.607
Sept 00-Mar 02						
Average		130,082.0	14.018	14.512	13.320	-0.494
St. Dev.		55,743.5	0.507	1.803	1.830	-1.296
Minimum		46,592.3	13.226	12.039	10.829	1.187
Maximum		205,016.2	14.855	17.753	16.683	-2.898
Range		158,423.9	1.629	5.714	5.854	-4.085
Nov 00-Mar 02						
Average ^{3/}		139,628.1	14.003	14.677	13.521	-0.674
St. Dev.		50,746.8	0.534	1.839	1.833	-1.305
Minimum		53,143.8	13.226	12.039	10.829	1.187
Maximum		205,016.2	14.855	17.753	16.683	-2.898
Range		151,872.5	1.629	5.714	5.854	-4.085

/1 Seven Orders refers to the seven Federal orders with participation in the Program during the study period—the Central, Mideast, Northeast, Pacific Northwest, Southeast, Upper Midwest, and Western orders.

/2 For a detailed description of how average prices are computed, see Appendix D.

/3 To allow comparisons to Tables F-2 and F-3, statistics for the 17-month period from November 2000 through March 2002 are provided.

Table F-2: Average Monthly Prices for Contracted Milk Volumes in Upper Midwest Federal Order: With Contract, Without Contract, and at FMMO Minimum Prices¹

Year and Month	Contract milk delivered and pooled <i>1000s lbs</i>	Weighted average prices at test			Price differences	
		Contract price	Non-contract price (had there been no contract)	Federal order minimum blend price	Contract minus non-contract	Contract minus Federal order blend price
			\$/cwt.	\$/cwt.	\$/cwt.	\$/cwt.
2000						
	Nov.	26,608.2	14.826	11.771	10.425	3.056
	Dec.	27,519.2	14.707	12.474	11.110	2.234
2001	Jan.	88,580.6	13.836	12.639	11.373	1.197
	Feb.	85,033.3	13.660	12.936	11.504	0.724
	Mar.	93,985.0	13.649	14.026	12.577	-0.377
	Apr.	121,854.9	13.281	14.330	13.144	-1.048
	May	62,520.1	12.668	15.353	14.518	-2.685
	June	60,823.5	12.582	16.094	15.334	-3.512
	July	68,294.6	12.575	16.291	15.565	-3.715
	Aug.	95,329.0	12.655	16.340	15.738	-3.686
	Sept.	121,698.9	13.135	17.269	16.499	-4.135
	Oct.	91,417.0	13.364	16.151	15.425	-2.787
2002	Nov.	117,727.7	13.652	13.542	12.948	0.110
	Dec.	118,473.2	13.183	13.402	12.693	-0.219
	Jan.	30,827.9	14.383	13.709	12.605	0.674
	Feb.	20,396.3	15.204	14.026	12.259	1.177
	Mar.	39,523.7	14.201	12.386	11.399	1.815
Monthly avg.- 17 months ^{2/}	74,742.0	13.621	14.279	13.242	-0.658	0.379
St.Dev.	35,888.8	0.819	1.669	1.898	-0.850	-1.079
Minimum	20,396.3	12.575	11.771	10.425	0.805	2.150
Maximum	121,854.9	15.204	17.269	16.499	-2.066	-1.296
Range	101,458.5	2.628	5.499	6.074	-2.870	-3.446

/1 For a detailed description of how average prices are computed, see Appendix D.

/2 For the Upper Midwest Federal order, price statistics are provided for 17 months rather than 19 months. Data for September and October of 2000 are restricted due to Program participation by less than 3 handlers. Data provided by fewer than three parties is considered restricted because aggregation of such information may not prevent individual disclosure.

Table F-3: Average Monthly Prices for Contracted Milk Volumes in Six Orders^{1/}: With Contract, Without Contract, and at FMMO Minimum Prices^{2/}

Year and Month	Contract milk delivered and pooled <i>1000s lbs</i>	Weighted average prices at test			Price differences	
		Contract price	Non-contract price (had there been no contract)	Federal order minimum blend price	Contract minus non-contract	Contract minus Federal order blend price
			\$/cwt.	\$/cwt.	\$/cwt.	\$/cwt.
2000						
Nov.	26,535.6	14.745	12.308	11.234	2.437	3.511
	Dec. 26,937.2	14.634	12.982	11.903	1.653	2.732
2001						
Jan.	38,803.4	14.404	13.363	12.303	1.040	2.101
Feb.	41,102.1	14.154	13.293	12.194	0.861	1.960
Mar.	50,763.2	14.246	14.392	13.080	-0.146	1.166
Apr.	54,985.6	14.205	15.018	13.731	-0.813	0.474
May	79,655.2	13.968	16.603	15.027	-2.634	-1.059
June	90,721.0	13.958	17.459	15.785	-3.501	-1.827
July	100,721.4	13.929	17.656	15.937	-3.727	-2.008
Aug.	100,423.8	13.769	17.651	16.173	-3.882	-2.404
Sept.	83,317.3	14.819	18.460	16.951	-3.641	-2.132
Oct.	79,474.5	14.832	17.216	15.587	-2.385	-0.756
Nov.	77,471.2	15.305	14.847	13.931	0.458	1.373
Dec.	81,366.7	14.636	14.324	13.034	0.312	1.602
2002						
Jan.	55,686.2	14.823	14.291	13.148	0.532	1.674
Feb.	53,986.8	14.724	13.839	12.817	0.885	1.907
Mar.	61,112.8	14.611	13.139	12.267	1.472	2.343
Monthly avg.- 17 months ^{3/}	64,886.1	14.457	15.108	13.830	-0.652	0.627
St.Dev.	23,831.7	0.419	1.976	1.743	-1.557	-1.324
Minimum	26,535.6	13.769	12.308	11.234	1.461	2.535
Maximum	100,721.4	15.305	18.460	16.951	-3.155	-1.647
Range	74,185.8	1.536	6.152	5.717	-4.616	-4.181

/1 Six Orders refers to the six Federal orders with participation in the Program other than the Upper Midwest—the Central, Mideast, Northeast, Pacific Northwest, Southeast, and Western orders.

/2 For a detailed description of how average prices are computed, see Appendix D.

/3 For the Six Orders, price statistics are provided for 17 months rather than 19 months. Data for September and October of 2000 are restricted due to Program participation by less than 3 handlers. Data provided by fewer than three parties is considered restricted because aggregation of such information may not prevent individual disclosure.

Appendix G

Farm Cash Receipts Comparisons

at

Contract and Non-Contract Milk Prices

Table G-1. Gross Cash Receipts for Contracted Milk in the Upper Midwest Federal Order With Comparisons

Year and Month	Milk volumes		Gross cash receipts before deductions for hauling, promotion, and marketing charges ^{1/}					Differences in gross cash receipts	
	Total pooled milk of Program ^{2/} producers	Contract Milk	Total pooled milk of Program producers	Contract milk	Contract milk had there been no contract	Contract milk at Federal order minimum prices	Contract minus Federal order minimum	Contract minus no contract	Contract minus no contract
							\$1000	\$1000	\$1000
2000									
Nov.	31,865.1	26,608.2	4,581.0	3,945.0	3,132.0	2,773.9	813.0	1,171.1	
Dec.	33,643.2	27,519.2	4,829.9	4,047.3	3,432.6	3,057.4	614.7	989.9	
2001									
Jan.	128,197.6	88,580.6	17,203.2	12,256.2	11,195.8	10,073.9	1,060.4	2,182.2	
Feb.	119,315.9	85,033.3	16,075.3	11,615.4	10,999.7	9,782.0	615.7	1,833.4	
Mar.	136,928.4	93,985.0	18,868.7	12,827.8	13,182.2	11,820.6	-354.3	1,007.2	
Apr.	167,119.6	121,854.9	22,883.4	16,184.0	17,461.6	16,016.2	-1,277.6	167.7	
May	95,832.1	62,520.1	13,304.0	7,919.9	9,598.8	9,076.5	-1,678.9	-1,156.6	
June	92,152.2	60,823.5	12,921.3	7,652.9	9,789.0	9,326.8	-2,136.1	-1,673.9	
July	98,003.3	68,294.6	13,520.4	8,588.3	11,125.6	10,630.2	-2,537.3	-2,041.9	
Aug.	146,205.2	95,329.0	20,497.4	12,063.4	15,576.9	15,002.7	-3,513.4	-2,939.3	
Sept.	170,866.1	121,698.9	24,481.8	15,984.8	21,016.7	20,079.4	-5,032.0	-4,094.6	
Oct.	123,673.6	91,417.0	17,440.9	12,216.6	14,764.7	14,101.4	-2,548.0	-1,884.7	
Nov.	172,773.3	117,727.7	23,506.5	16,072.4	15,942.9	15,243.5	129.5	828.9	
Dec.	178,556.9	118,473.2	23,652.7	15,617.9	15,877.4	15,038.0	-259.4	579.9	
2002									
Jan.	65,999.1	30,827.9	9,061.7	4,433.9	4,226.2	3,885.7	207.7	548.2	
Feb.	33,333.0	20,396.3	4,833.3	3,101.0	2,860.9	2,500.4	240.1	600.6	
Mar.	77,575.1	39,523.7	10,259.9	5,612.6	4,895.4	4,505.4	717.2	1,107.3	
Totals	1,872,039.8	1,270,613.3	257,921.3	170,139.5	185,078.2	172,914.1	-14,938.7	-2,774.7	

/1 For a description of how gross values are computed, see Appendix D.

/2 Program refers to Dairy Forward Pricing Pilot Program.

Table G-2: Gross Cash Receipts for Contracted Milk in Six Orders^{1/} With Comparisons

Year and Month	Milk volumes		Gross cash receipts before deductions for hauling, promotion, and marketing charges ^{2/}				Differences in gross cash receipts		
	Total pooled milk of Program ^{3/} producers	Contract Milk	Total pooled milk of Program producers	Contract milk	Contract milk had there been no contract	Contract milk at Federal order minimum prices	Contract minus no contract	Contract minus Federal order minimum	
	<i>1000s lbs.</i>		<i>\$1000</i>				<i>\$1000</i>		
2000									
Nov.	35,385.8	26,535.6	4,966.5	3,912.6	3,266.1	2,981.1	646.6	931.6	
Dec.	37,759.0	26,937.2	5,339.0	3,942.1	3,496.9	3,206.3	445.2	735.8	
2001									
Jan.	53,515.7	38,803.4	7,581.7	5,589.1	5,185.5	4,774.0	403.6	815.1	
Feb.	60,960.0	41,102.1	8,506.3	5,817.7	5,463.8	5,011.9	353.9	805.8	
Mar.	75,838.8	50,763.2	10,892.1	7,231.7	7,305.8	6,640.0	-74.1	591.8	
Apr.	84,305.0	54,985.6	12,265.8	7,810.8	8,258.0	7,550.1	-447.3	260.6	
May	125,291.0	79,655.2	18,757.9	11,126.6	13,224.8	11,970.1	-2,098.2	-843.5	
June	138,708.9	90,721.0	21,093.3	12,662.9	15,839.3	14,320.1	-3,176.4	-1,657.2	
July	145,636.9	100,721.4	21,913.8	14,029.4	17,783.7	16,051.6	-3,754.3	-2,022.2	
Aug.	145,682.7	100,423.8	21,785.6	13,827.4	17,726.1	16,241.8	-3,898.7	-2,414.4	
Sept.	119,793.4	83,317.3	19,023.5	12,346.9	15,380.5	14,123.4	-3,033.5	-1,776.4	
Oct.	112,859.8	79,474.5	17,505.2	11,787.3	13,682.6	12,388.0	-1,895.3	-600.7	
Nov.	109,642.3	77,471.2	16,546.6	11,856.8	11,502.4	10,792.8	354.4	1,064.0	
Dec.	119,532.8	81,366.7	17,450.6	11,908.8	11,655.0	10,605.0	253.8	1,303.8	
2002									
Jan.	84,620.3	55,686.2	12,504.1	8,254.2	7,958.1	7,321.9	296.1	932.4	
Feb.	70,052.6	53,986.8	10,238.4	7,949.0	7,471.0	6,919.5	478	1,029.4	
Mar.	83,934.8	61,112.8	12,004.2	8,929.1	8,029.5	7,496.9	899.6	1,432.2	
Totals	1,603,519.6	1,103,064.1	238,374.6	158,982.5	173,229.0	158,394.4	-14,246.6	588.1	

/1 Six Orders refers to the six Federal orders with participation in the Program other than the Upper Midwest—the Central, Mideast, Northeast, Pacific Northwest, Southeast, and Western orders.

/2 For a description of how gross values are computed, see Appendix D.

/3 Program refers to Dairy Forward Pricing Pilot Program.