

April 2, 2018

Dana Coale, Deputy Administrator
USDA – AMS – Dairy Programs
Stop 0225, Room 2968 South Bldg.
1400 Independence Ave., SW
Washington, DC 20250-0225

Re: Proposal for hearing on multiple component pricing for Orders 5 & 7

Dear Deputy Administrator Coale:

For 29 years, multiple component pricing (MCP) of farm milk has been used in the Federal Milk Marketing Order (FMMO) Program. MCP is also employed in California, in Canada, in the European Union, and other countries. In 2016, 86% of the 134 billion pounds of producer milk under FMMO regulation was subject to an MCP plan by which dairy farmers are paid for the valuable solids content of farm milk – butterfat, protein, and other non-fat solids. In the southeast markets (Orders 5 and 7), producers continue to be paid for the butterfat and skim milk they produce, a method by which water in skim milk returns the same price per pound to producers as nonfat solids, including protein, contained in skim milk.

By this proposal, fourteen cooperative associations that market about 70% of producer milk in the southeast¹, joined by state and national producer trade associations², request the Secretary to hold a hearing to consider adoption of the uniform MCP pricing plans for the Southeast and Appalachian FMMO markets (collectively, “southeast markets”), along with adjustment for somatic cell count (SCC). The proposal would: (1) reduce wasteful transportation, handling and transaction costs associated with supplying raw milk to the southeast markets, (2) provide MCP revenue benefits to producers, (3) restore uniform classified pricing for milk used to produce Class II, III and IV products in the southeast markets’ procurement areas, and (4) improve production market signals to dairy farmers.

Multiple component pricing was first introduced in the FMMO program following a 1986 hearing for the Great Basin Order. 53 Fed. Reg. 686 (Jan. 11, 1988) (Final Decision). In the following years, MCP was adopted for the Mid-Atlantic market (56 Fed. Reg. 57850 (Nov. 14, 1991)), Ohio and Indiana markets (58 Fed. Reg. 33347 (June 17, 1993)), the Pacific Northwest and Idaho markets (59 Fed. Reg. 8546 (Feb. 23, 1994)), five Upper Midwest markets (60 Fed. Reg. 41833 (Aug. 14, 1995)) and the Southern Michigan market (60 Fed. Reg. 43066 (Aug. 18, 1995)).

¹ Proponent cooperative associations are: Cobblestone Milk Cooperative, Inc.; Cooperative Regions of Organic Producer Pools; Dairy Farmers of America, Inc.; Erie Cooperative Association, Inc.; Foremost Farms USA; LANCO-Pennland Quality Milk Producers Association, Inc.; Lone Star Milk Producers, Inc.; Maryland and Virginia Milk Producers Cooperative Association, Inc.; Michigan Milk Producers, Inc.; Prairie Farms Dairy, Inc.; Premier Milk, Inc.; Scioto Co-Operative Milk Producers Association; Southeast Milk, Inc.; and White Eagle Cooperative Association.

² Supporting producer trade associations include: National All-Jersey Inc., Kentucky Dairy Development Council, Georgia Milk Producers, and North Carolina Dairy Producers Association. Attachment H

The Federal Milk Marketing Order Reform Decision provided a uniform, protein-based MCP plan for all seven markets outside of the southeast and Arizona. 64 Fed. Reg. 16026, 16015 (Apr. 2, 1999). The objectives of orderly marketing, producer equity, and rational economics explained in these decisions now apply to the two southeast markets.

In the course of Federal Order Reform 20 years ago, multiple component pricing for producer milk was tied to multiple component pricing for milk in manufacturing classes, providing a better fit between market values and regulated prices. 64 Fed. Reg. 16026, 16091 (Apr. 2, 1999)(Final Decision). A few markets retained skim/butterfat pricing for producer milk because there was “no support” for MCP. 63 Fed. Reg. 4801, 4876 (Jan. 30, 1998) (Recommended Decision). Similarly, three of the MCP markets created by FMMO reform contained no SCC adjustment of producer prices because “producer sentiment is opposed to the inclusion of SCC adjustments....” 64 Fed. Reg. at 16105. As demonstrated in this letter-proposal, producer sentiment now favors an MCP plan with SCC adjustments for the two southeast markets.³

The Southeast and Appalachian markets (collectively “southeast markets”) in the 1990’s had high Class I use and were largely supplied by milk originating in or near the markets. Milk production within the southeast region has declined since the Federal Milk Marketing Order Reform Decision was implemented January 1, 2000. While the decline has slowed in recent years (Attachment A), both the Appalachian and Southeast Federal Orders receive regular and supplemental milk from milksheds that overlap those of the surrounding Federal Order markets, as seen in Attachment B.

The reserve and surplus supply of milk pooled under the Southeast Milk Order is predominately marketed to Class III (cheese) plants. Most nonpool manufacturing plants that receive milk from the southeast markets are cheese, butter/powder, and Class II plants located within the Mideast, Northeast, Upper Midwest, Central and Southwest Marketing Areas in which multiple component pricing applies to all producer milk. The need to market southeast region surplus milk to the north and west has increased over the years as Class III and IV manufacturing capacity within the southeast has reduced.⁴

A greater share of the reserve and surplus supply of Order 5 milk is ordinarily marketed for Class IV use, as there is significant butter/powder manufacturing capacity in the North Atlantic milksheds. A large share of Appalachian producer milk is also used in Class II products, reflecting Class II manufacturing capacity in the North Atlantic milksheds, and growing Class II manufacturing capacity within the Order 5 marketing area. The population of the Southeast and Appalachian markets continues to grow; and demand for Class II products has grown and is expected to continue to expand as the population expands.

The Secretary’s determinations in the 1986 – 1999 MCP decisions, cited above, include the following economic and orderly marketing benefits for producers, handlers, and consumers

³ Although many comments in prior milk order proceedings have advocated national use of multiple component pricing, we do not at this time propose to extend MCP to the Arizona market or the Florida market. We are advised that the major cooperatives supplying these markets do not favor extension of MCP to Florida and Arizona at this time.

⁴ Southeast region manufacturing plant closings in recent years listed in Attachment C were obtained via emails on December 22, 2014, from the Market Administrators of Federal Orders 5 and 7.

that we believe are fully applicable to the Southeast and Appalachian markets:

- 1) Component pricing eliminates the producer preference for marketing to a manufacturing plant and improves the efficient availability of milk for other uses.
- 2) Handlers who purchase milk on a skim component basis frequently have a competitive advantage in regulated raw milk costs over handlers who purchase on a skim volume basis. For Class II, III, and IV products, which are sold in a national competitive marketplace, unequal regulated milk prices – created by multiple component pricing in most orders, and skim-butterfat pricing in Orders 5 and 7 – impairs competition to the detriment of manufacturers and consumers. The Market Administrators for Orders 5 and 7 have estimated the differences in Class II, III and IV milk values when priced using the existing skim-butterfat system compared to the proposed MCP system. That analysis shows that skim-butterfat pricing has been consistently undervaluing milk used for Class II, III and IV products.⁵
- 3) Pricing of skim milk on the basis of volume improperly assumes that all skim milk has the same value regardless of component content of skim milk
- 4) The regulated and competitive pricing system has, over time, placed a substantially greater share of milk value on the skim portion of milk.
- 5) Protein has a higher demand than other components of milk because of its functional, nutritional and economic value in the marketplace. The functional characteristics of protein, for example, allow it to form the matrix in the production of cheese and yogurt.
- 6) Component pricing reflects the value of milk components in the marketplace.
- 7) Component pricing of skim milk improves the manner in which federal order pricing translates market value for dairy products into milk prices. Processors pay for the components they receive in producer milk, and producers are paid for the components they provide.
- 8) Component pricing informs producers about which components have the greatest value and thereby encourage production of those components.

These factors now support adoption of the uniform MCP plan in the southeast markets. In addition to data included with this proposal, the proponents will provide additional supporting documentation in their testimony.

In the decision adopting MCP for five Midwest markets, the Secretary explained how differing plans for payment to producers in overlapping milksheds creates disorderly marketing:

Certainly, including the Nebraska-Western Iowa and Eastern South Dakota orders in this decision will contribute to orderly marketing. The data supplied by the market administrators' offices describing the milksheds of the various orders shows a considerable overlap of milksheds. For example, many South Dakota counties have milk pooled on three of the five orders during the same month. In the absence of uniform

⁵ http://www.fmmlanta.com/Misc_Docs/MCP%20Impact%20by%20Class%20-%20FO%207.pdf
<http://www.malouisville.com/linkeddcs/StatReports/FO%205%20Component%20Pricing%20Impact%20by%20Class.pdf>

pricing provisions between the five orders, disorderly marketing could occur, particularly when orders have overlapping milksheds, if one order were pricing milk on a skim and butterfat basis while another order was pricing milk on the basis of its components. If a producer's milk tests high for nonfat components but is pooled under an order that prices milk on a skim-butterfat basis, the producer would attempt to maximize returns by changing the market under which his milk is pooled to benefit from his high component levels. The opposite situation would occur if the milk of a producer testing below average for nonfat components is pooled under an order with MCP provisions. Such a producer would maximize returns by changing the order under which his milk is pooled to one with skim butterfat pricing. This shuffling of producers in the same geographic area because of nonuniform pricing provisions would not constitute orderly marketing.

60 Fed. Reg at 41837.

Each of the MCP decisions explained that the existence of inconsistent programs for payment to producers in common procurement areas can result in disorderly marketing.

Producers, cooperatives and handlers are presumed to respond rationally to economic signals created by the marketplace or by regulation in order to maximize revenue. As frequently explained in the agency's milk order decisions, FMMO amendment intervention is appropriate when market or regulatory signals create, rather than mitigate, disorderly marketing. Such marketing disorder has been experienced in the southeast region with adverse impact not only for milk used in manufacturing classes, but also for fluid use. Marketing inefficiency in supplying milk for fluid use in the southeast markets creates a unique imperative for adoption of uniform MCP rules in the southeast.

As noted above and in Attachment B, the southeast region relies on milk supplies from producers who have access to MCP markets. Milk originating in MCP markets would rationally be reluctant to supply fluid milk needs in the southeast if that meant giving up greater revenue from MCP in the market of origin. A high component producer within or near the southeast market would rationally seek an MCP market buyer, rather than serve southeast fluid needs, to enhance farm revenue from the payment for protein. By such rational decisions, less out-of-area milk will be made available to serve fluid needs in the southeast unless the originating milk is below average in protein content or the buying market compensates the supplier for giving up MCP revenue. Milk marketing and movement in the southeast is being directed by the unequal regulated pricing systems in adjacent Federal Orders rather than serving market needs and promoting marketing efficiencies. Some costly marketing inefficiencies due to the adjoining MCP and skim-butterfat markets are illustrated below:

- High protein milk in or near the southeast markets is transported away from the southeast to MCP market plants, while lower protein milk from more distant sources is shipped to the southeast for fluid use, adding unnecessary transportation costs on the outbound as well as on the inbound milk as tanker trucks pass each other going in opposite directions. Attachment B, pages 5 and 6, shows milk produced in west Tennessee that is serving markets in Order 32, presumably to realize its protein value.
- Milk assembly routes are organized to collect lower protein milk for shipment to

southeast markets when closer supplies, or more efficiently-assembled supplies, would be available but for the discouraging skim-butterfat price available for southeast market sales.

- A graphic illustration of the result of these marketing practices, as measured by protein content of producer milk, is shown in Attachment D for milk from East Texas (as defined by the Order 126 Market Administrator) pooled in Orders 126 and 7. The higher protein milk in East Texas is retained to serve markets in Order 126 to realize its protein value. Meanwhile Attachment B, pages 1 and 2, shows milk from west Texas regularly supplying Order 7. Logic dictates that if MCP existed in Order 7, additional East Texas milk would serve Order 7 markets thereby eliminating the need to move as much milk from west Texas and the associated greater hauling costs.
- Attachment B also shows that milk produced in Indiana regularly serves markets in Orders 5, 7 and 33. Data provided by Market Administrators (Attachment E) shows lower protein milk from Indiana being pooled in Order 5 (3.057%) and Order 7 (3.065%) while higher protein milk is pooled in Order 33 (3.130%). Pennsylvania milk serving Order 5 averages 3.049% protein, while Pennsylvania milk serving Orders 1 and 33 averages 3.090% and 3.100% protein, respectively. Higher protein milk produced in Virginia is moved out of the southeast to be pooled in Order 1 (3.110%), while the state's lower protein milk remains pooled in Order 5 (3.018%).⁶
- When procurement of milk with average or above average protein content from farms in MCP markets is necessary to serve southeast market needs, the buyer typically pays producers the difference between the regulated MCP price they would receive in their home market, and the skim-butterfat price for which the milk will be credited in the southeast market.
- In order to retain supplies of high protein producer milk from farms within the southeast markets that have access to MCP-market buyers, it is similarly necessary to compensate producers as though the milk were pooled on an MCP market to retain the milk for fluid use in the southeast. This creates additional and non-uniform procurement costs, created by the regulatory structure, on some handlers.

As noted, if out-of-area producer milk pooled in the southeast markets is above average protein, the southeast buyer or supplier will ordinarily need to pay extra to secure or retain that milk for fluid use. But the problems experienced by the handler or supplier of fluid milk do not end there. When such above-average protein milk is diverted for manufacturing use, the manufacturer knows that the diverting handler (unlike handlers diverting milk from an MCP market) has not been required by FMMO rules to account for the added value of high protein. As a result, the full value of milk components may not be paid by the manufacturer for benefit of the diverting handler or its producers.

By adoption of MCP, cooperatives and other handlers procuring fluid milk for the southeast markets would save marketing, transportation, transaction and regulatory costs, leaving more revenue available to pay pool producers and advancing the public policy objective of marketing efficiency.

⁶Data shown in Attachment E obtained from Data Request (Orders 5 and 7) and via emails from Market Administrators for Orders 1, 32, 33 and 126.

Southeast region pool producers would independently (and additionally) benefit from the operation of an MCP plan based simply on the enhanced market value of skim solids over the value of skim milk under the current pricing system to producers with average skim solids content in milk. During the 2006 to 2016 period, multiple component pricing would have increased producer regulated milk revenue by an estimated \$25 million (\$0.053/cwt) and \$44 million (\$0.078/cwt) in the Appalachian and Southeast marketing area, respectively.⁷ For the most recent 12-month period of October 2016 to September 2017, Appalachian producer milk prices would have been enhanced by a monthly average of \$0.04 to \$0.11 per hundredweight under MPC and SCC pricing.⁸ For the Southeast Market, producer milk prices would have been enhanced by a monthly average of \$0.01 to \$0.13 under MCP and SCC pricing during the most recent reported 12 months of July 2016 – June 2017,⁹ the lowest monthly average of which was greatly influenced by relatively high SCC levels.

Our proposal includes price adjustments for SCC content in producer milk, as incorporated in the Upper Midwest, Mideast, Central and Southwest Marketing Orders. In addition to supporting rationale for SCC price adjustments contained in USDA’s MCP decisions for these Orders, current marketing conditions underscore the benefits of producing high-quality/low SCC milk. Since April 2012, European Union regulations require that plants exporting dairy products to EU and allied countries must demonstrate that individual producers supplying milk to make exported products meet an SCC standard of less than 400,000 SCC/mL.¹⁰ Many handlers in the Southeast, desiring high quality milk, will not accept milk with SCC in excess of 400,000/mL, often creating extraordinary milk disposition costs for cooperative suppliers. If the recent slowing of production declines in the southeast (Attachment A) portend future production increases, the region will become more dependent on manufactured products, which will in turn increase the importance of producing low SCC milk.

Adoption of an MCP plan in other markets has made producers more aware of protein value in milk and of the value of high quality milk as measured by low SCC levels. MCP created economic incentives to alter production practices to increase protein content and to reduce SCC levels. Average protein in producer milk in MCP markets has, in fact, increased following adoption of an MCP plan (Attachment F), and SCC levels have dropped significantly (Attachment G). A similar response can logically be expected from southeast producers who do not have prior experience with multiple component pricing, thereby further enlarging the regulated revenue pie.

To summarize, and conform to the proposal content requirements of 7 C.F.R. § 900.22:

⁷ <https://www.ams.usda.gov/sites/default/files/media/FO5ComponentPricingImpact20082016.pdf>

<https://www.ams.usda.gov/sites/default/files/media/FO7ComponentPricingImpact20082016.pdf>

⁸ <http://www.malouisville.com/linkeddocs/StatReports/FO%205%20Component%20Pricing%20Impact.pdf>

⁹ http://www.fmmlanta.com/Misc_Docs/FO7_Component%20Pricing_2017_update.pdf.

¹⁰ A description of the EU requirement, and Analysis of SCC trends in the Upper Midwest, Mideast, Central and Southwest markets, is contained in: “Determining U.S. Milk Quality Using Bulk-tank Somatic Cell Counts, 2011,” Veterinary Services, Centers for Epidemiology and Animal Health, APHIS, USDA (Sept. 2012), published at https://www.aphis.usda.gov/animal_health/nahms/dairy/downloads/dairy_monitoring/BTSCC_2009infosheet.

- a) The proposal is for a hearing to consider adoption in Orders 5 and 7 of the current uniform MCP pricing program applicable in FMMO markets for the Northeast, Mideast, Upper Midwest, Central, and Southwest, including the SCC adjustment used for most MCP milk. The absence of MCP pricing in the southeast causes inefficient and disorderly supply of milk for fluid use to the southeast; perpetuates inequity among producers who receive regulated revenue not commensurate with the value of milk components they produce; requires handlers to operate under conflicting pricing rules when procuring milk from multiple markets; and creates inter-market non-uniform classified prices for milk used to produce manufactured products.
- b) The purpose of the proposal, MCP in the two southeast markets, is to have a uniform system of pricing milk to producers and handlers throughout most of the FMMO system in the Eastern United States, benefitting producers, handlers, and consumers as described above, and in FMMO decisions of the Secretary from 1986 – 1999 in which MCP has been adopted.
- c) Current Federal order provisions require skim milk and butterfat pricing and accounting for producer milk in the two southeast markets. Industry practices price milk for manufacturing use based on butterfat, protein and nonfat solids content of milk. Fluid milk suppliers to the southeast markets must bear extra costs from transportation, component content, and source of supply when procuring milk for fluid use.
- d) The proposal is expected to benefit producers and by reducing costs associated with supplying fluid markets in the southeast, and enhance average regulated revenue to producers under an MCP plan. Handlers will additionally benefit by a common system of accounting, producer payroll, and FMMO pool reports for virtually all producer milk in the Eastern United States and by elimination of inter-order non-uniform classified prices for milk used to produce Class II, III, and IV products.
- e) Small businesses will, on balance, benefit for reasons described above. Some producers with lower than average protein will experience less regulated revenue, while other producers experience more. The cross-subsidy to low protein producers by high protein producers will end. USDA has previously certified, e.g., that adoption of an MCP plan “will not have a significant economic impact on a substantial number of small entities. The amended orders will promote more orderly marketing of milk by producers and regulated handlers.” 58 Fed. Reg. at 33348 (1993); 60 Fed. Reg. 41833 (1995).
- f) As described above, it is expected that adoption of an MCP plan for the two southeast markets will decrease costs to handlers and cooperatives supplying the southeast fluid milk market and possibly increase costs to manufacturing plants (if any) that do not now pay for the value of skim milk solids used in manufacturing. It is believed that costs for order administration will not significantly be affected. Market Administrators in the southeast currently test for protein, other solids, and somatic cell counts, but may need to do more testing if an MCP plan is adopted.

- g) The Order 5 and Order 7 multiple component pricing proposal put forward by the fourteen cooperative associations has real and substantial benefits all along the marketing chain from dairy farmers to the ultimate retail dairy products buyer. Consumers of milk and dairy products will especially benefit because multiple component pricing “will improve how well the pricing system in the orders translates consumer preferences into economic signals that indicate to dairy farmers exactly what consumers want.” 59 Fed. Reg. 8546, 8549 (Feb. 23, 1994) (Pacific Northwest Decision). Changes in consumer attitudes and preferences are more quickly and more ably relayed to the farmer through multiple component pricing than by way of the current skim milk and butterfat pricing system employed in the two Orders.

Assuming price transmission from the farm to the retailer, consumers will benefit from lower costs through the marketing chain by the elimination of the expensive and unsustainable marketing inefficiencies which have been previously described. Improved marketing efficiency benefits consumers, as well as producers and handlers. E.g., 63 Fed. Reg. 686, 689 (Jan. 11, 1988) (Great Basin Decision). Also, to the extent milk is moving further than logistically rational, retail buyers of dairy products in the two marketing areas will benefit from a nearer and fresher supply of milk. The public at large benefits, as it always does, from the efficient and orderly handling, and the promotion of fair competition between processors which accrues from the proper pricing of agricultural products.

- h) A pre-hearing information session is not needed because MCP is already utilized in six other FMMOs, and its methodology is well-established and understood.
- i) If MCP amendments are endorsed by a decision of the Secretary, and approved by producers, we recommend an interval of several months prior to the effective date of amendments so that the industry may plan and prepare for the changes.

In short, the absence of multiple component pricing for the Southeast and Appalachian markets creates and perpetuates marketing inefficiency, lack of uniformity for manufacturing milk prices, inequitable marketing or procurement costs to handlers, and understated revenue to producers. The amendments proposed herein, contained in Attachments I and J, would enhance efficient and orderly marketing of milk and dairy products in the southeast markets.

Respectfully submitted,



Erick Metzger, General Manager
National All-Jersey Inc.
Proponent Coordinating Representative

(Individual cooperative proponent authorizations follow, preceding the lettered attachments.)

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

The undersigned, duly authorized, verifies that the cooperative association identified below is co-proponent of and supports the proposal for hearing on multiple component pricing for Orders 5 & 7 submitted by letter of Erick Metzger to Dana Coale, Deputy Administrator, Dairy Program, Agricultural Marketing Service, U.S. Department of Agriculture.

Name of Cooperative Association: COBBLESTONE MILK
COOPERATIVE, INC.

Authorized representative signature: Bennett Fulper
Printed name: BENNETT FULPER

Date: 3/12/2018

Erick Metzger organizing 2018

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Cooperative Regions
of Organic Producer Pools (Organic Valley)

Authorized representative signature: Todd Evers

Printed name: Todd Evers

Date: 3/14/18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Dairy Farmers
of America

Authorized representative signature: Kent Herman
Printed name: Kent Herman

Date: 3/13/18



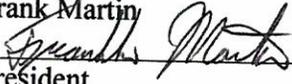
Erie Cooperative Association

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders
5 & 7

The undersigned, duly authorized, verifies that the cooperative association identified below is co-proponent of and supports the proposal for hearing on multiple component pricing for Orders 5 & 7 submitted by letter of Erick Metzger to Dana Coale, Deputy Administrator, Dairy Program, Agricultural Marketing Service, U.S. Department of Agriculture.

Erie Cooperative Association

Frank Martin



President

March 10th, 2018

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

The undersigned, duly authorized, verifies that the cooperative association identified below is co-proponent of and supports the proposal for hearing on multiple component pricing for Orders 5 & 7 submitted by letter of Erick Metzger to Dana Coale, Deputy Administrator, Dairy Program, Agricultural Marketing Service, U.S. Department of Agriculture.

Name of Cooperative Association: Foremost Farms USA

Authorized representative signature: Vincent B. Martens

Printed name: Vincent B. Martens

Date: March 12, 2018

Cooperative Proponent Authorization In Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

The undersigned, duly authorized, verifies that the cooperative association identified below is co-proponent of and supports the proposal for hearing on multiple component pricing for Orders 5 & 7 submitted by letter of Erick Metzger to Dana Coale, Deputy Administrator, Dairy Program, Agricultural Marketing Service, U.S. Department of Agriculture.

Name of Cooperative Association: Lanco-Pennland Quality
Milk Producers

Authorized representative signature: J. Robert Morris
Printed name: J. Robert Morris

Date: 3-14-18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Lone Star Milk Producers,
Inc.

Authorized representative signature: Sonia Fabian

Printed name: Sonia Fabian

Date: 3-7-18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Maryland & Virginia Milk Producers

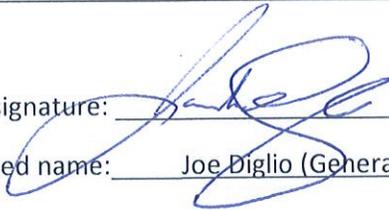
Authorized representative signature: Jay Bryant
Printed name: Jay Bryant

Date: 3/8/18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Michigan Milk Producers Association

Authorized representative signature:  _____

Printed name: Joe Diglio (General Manager)

Date: 03/19/2018

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Prairie Farms Dairy, Inc

Authorized representative signature: Gary D. Lee

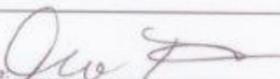
Printed name: Gary D. Lee

Date: 7-7-18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Premier Milk Inc

Authorized representative signature: 

Printed name: Thomas Pittman

Date: 3-14-18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

The undersigned, duly authorized, verifies that the cooperative association identified below is co-proponent of and supports the proposal for hearing on multiple component pricing for Orders 5 & 7 submitted by letter of Erick Metzger to Dana Coale, Deputy Administrator, Dairy Program, Agricultural Marketing Service, U.S. Department of Agriculture.

Name of Cooperative Association: Scioto Co-Operative
Milk Producers Association

Authorized representative signature: Ronald Fenton

Printed name: Ronald Fenton

Date: 3-9-18

Cooperative Proponent Authorization in Support of
Proposal for Hearing on Multiple Component Pricing for Orders 5 & 7

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Name of Cooperative Association: Southwest Milk, Inc.
(SMI)

Authorized representative signature: Jim Sleser
Printed name: Jim Sleser

Date: 3-12-18

WHITE EAGLE COOPERATIVE

Office: 314.821.4456
800.325.9556
800.877.9556
FAX: 314.821.3251

Cooperative Proponent Authorization in Support of
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White Eagle Cooperative Association

Nate Jager



President

March 10th, 2018

Attachments to producers' proposal for a Federal Milk Marketing Order
hearing on multiple component pricing for Orders 5 & 7

A: Southeast states (FMMO Orders 5 and 7) milk production, 2000 - 2017, annual

B: December 2016 and May 2017 milkshed maps for FMMO markets – Order 7, Order 126, Order 32, Order 5, Order 33, and Order 1.

C: Southeast region manufacturing plant closings.

D: Protein content of milk produced in East Texas pooled in Order 126 vs East Texas milk pooled in Order 7, January 2014 – September 2017.

E: Protein Test by State and Federal Order, 2014-2016

F: Annual protein test by MCP Order 2000-2016

G: Annual SCC by MCP Order 2000-2016

H: Letters of Support for MCP

I: Proposed order amendment language for Order 5.

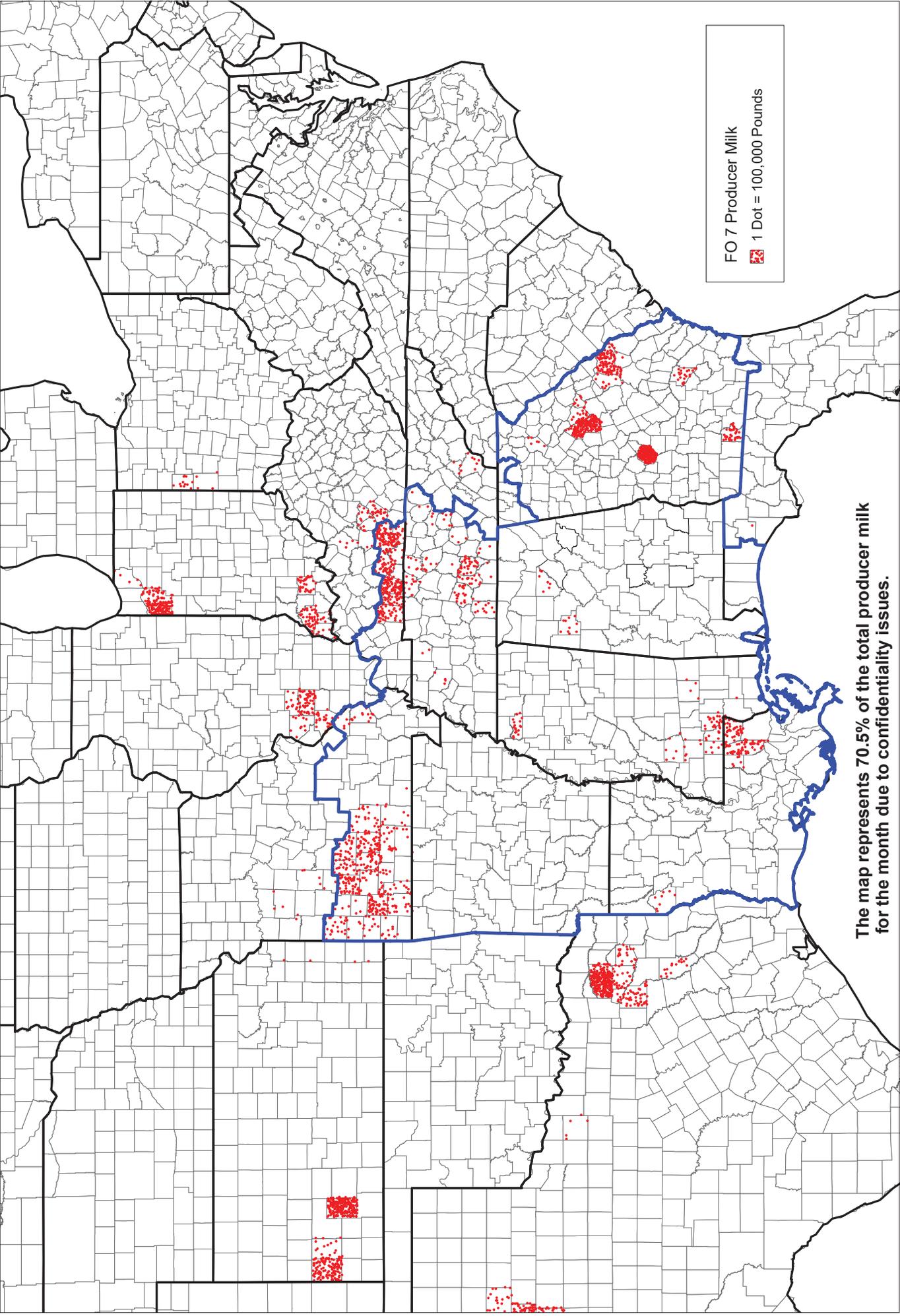
J: Proposed order amendment language for Order 7.

ATTACHMENT A

Southeast states (FMMO Orders 5 and 7) milk production 2000 – 2017, annual

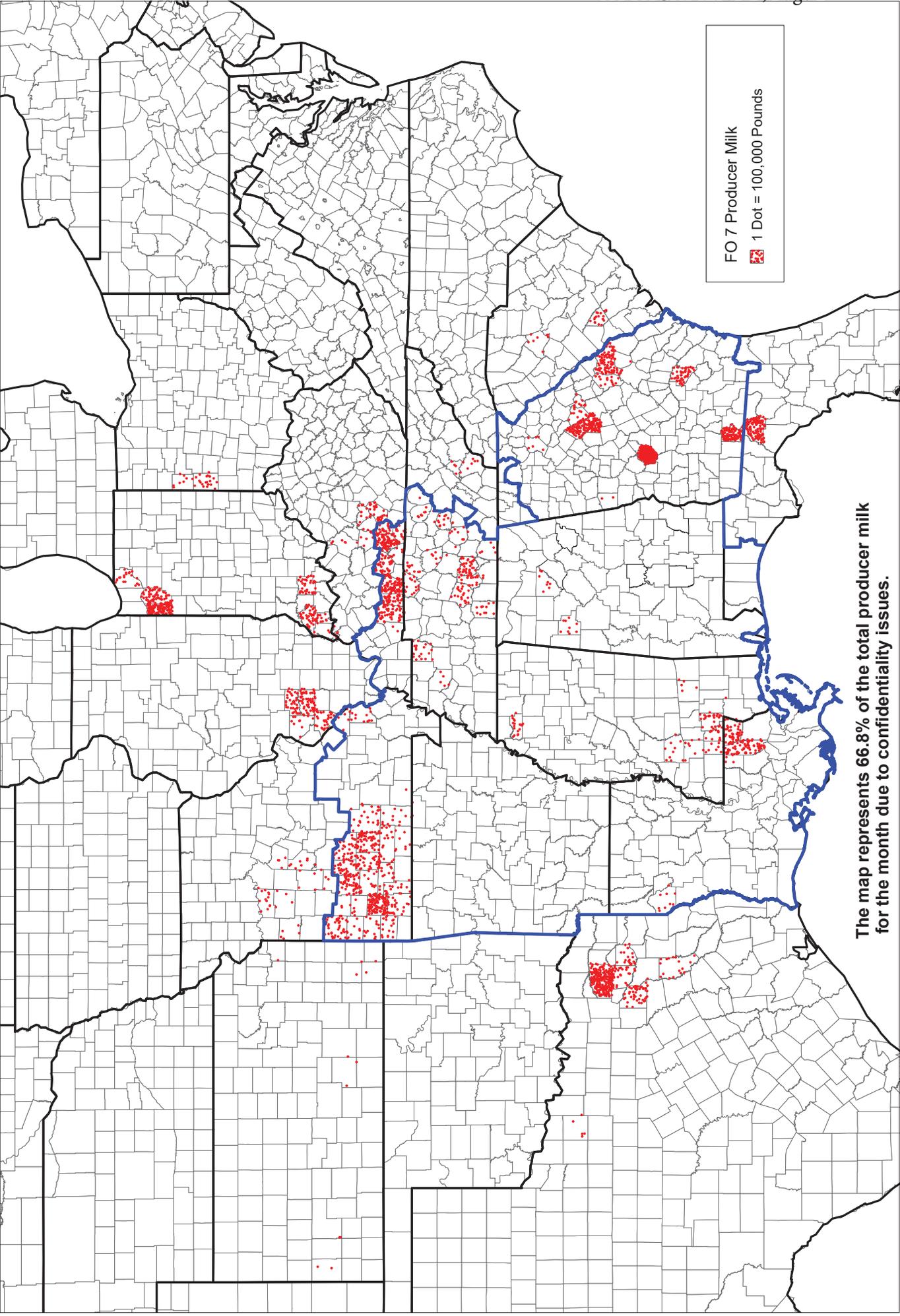
Production by State (Million pounds)																	% Change			
State	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2000-2005	2006-2011	2012-2016
Alabama	348	300	277	252	245	224	203	197	184	164	156	143	130	117	109	101	92			
Arkansas	485	432	393	354	323	298	258	220	186	165	153	143	133	105	96	91	79			
Georgia	1,433	1,433	1,470	1,444	1,416	1,398	1,404	1,399	1,355	1,400	1,395	1,450	1,531	1,568	1,691	1,797	1,830			
Kentucky	1,695	1,660	1,614	1,465	1,422	1,367	1,303	1,250	1,210	1,192	1,152	1,090	1,120	1,070	1,002	1,077	1,048			
Louisiana	698	632	579	519	479	434	396	349	319	271	235	232	222	206	204	188	169			
Mississippi	541	497	478	423	379	382	344	324	291	250	223	204	199	186	188	165	144			
North Carolina	1,189	1,154	1,137	1,044	1,006	1,012	944	921	892	884	866	904	940	935	961	985	965			
South Carolina	370	367	364	318	287	288	277	322	323	325	286	279	276	264	263	261	250			
Tennessee	1,405	1,335	1,315	1,205	1,155	1,102	1,049	999	948	909	850	810	805	765	745	742	696			
Virginia	1,900	1,885	1,891	1,731	1,731	1,784	1,771	1,753	1,726	1,736	1,719	1,719	1,727	1,742	1,779	1,771	1,723			
Total	10,064	9,695	9,518	8,755	8,443	8,289	7,949	7,734	7,434	7,296	7,035	6,974	7,083	6,958	7,038	7,178	6,996	-18%	-12%	-1%
Source: USDA ERS Milk cows and production by State and region (Annual)																				
https://www.ers.usda.gov/data-products/dairy-data/																				

**Southeast Marketing Area Milkshed
Federal Order No. 7
December 2016**



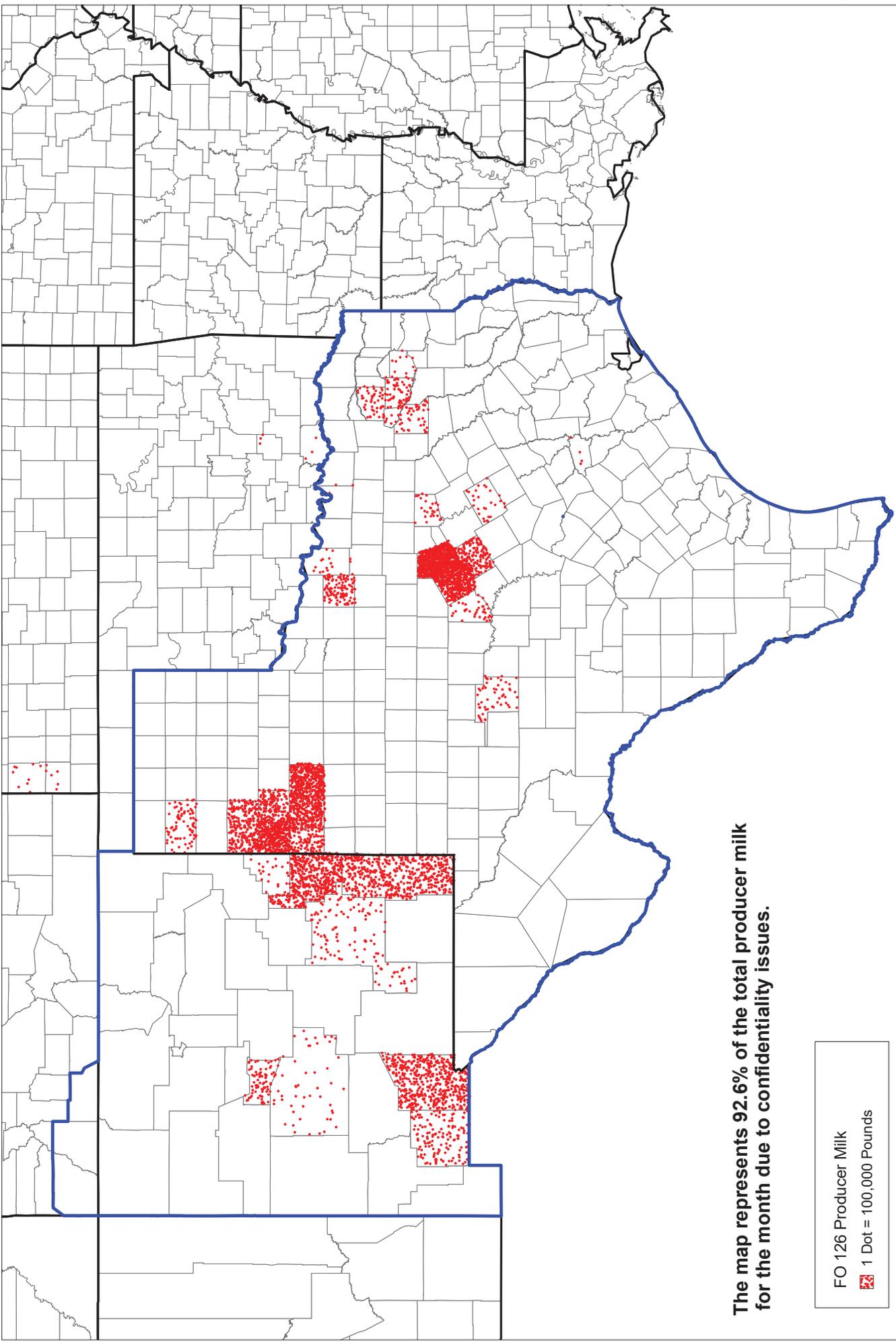
The map represents 70.5% of the total producer milk for the month due to confidentiality issues.

**Southeast Marketing Area Milkshed
Federal Order No. 7
May 2017**



The map represents 66.8% of the total producer milk for the month due to confidentiality issues.

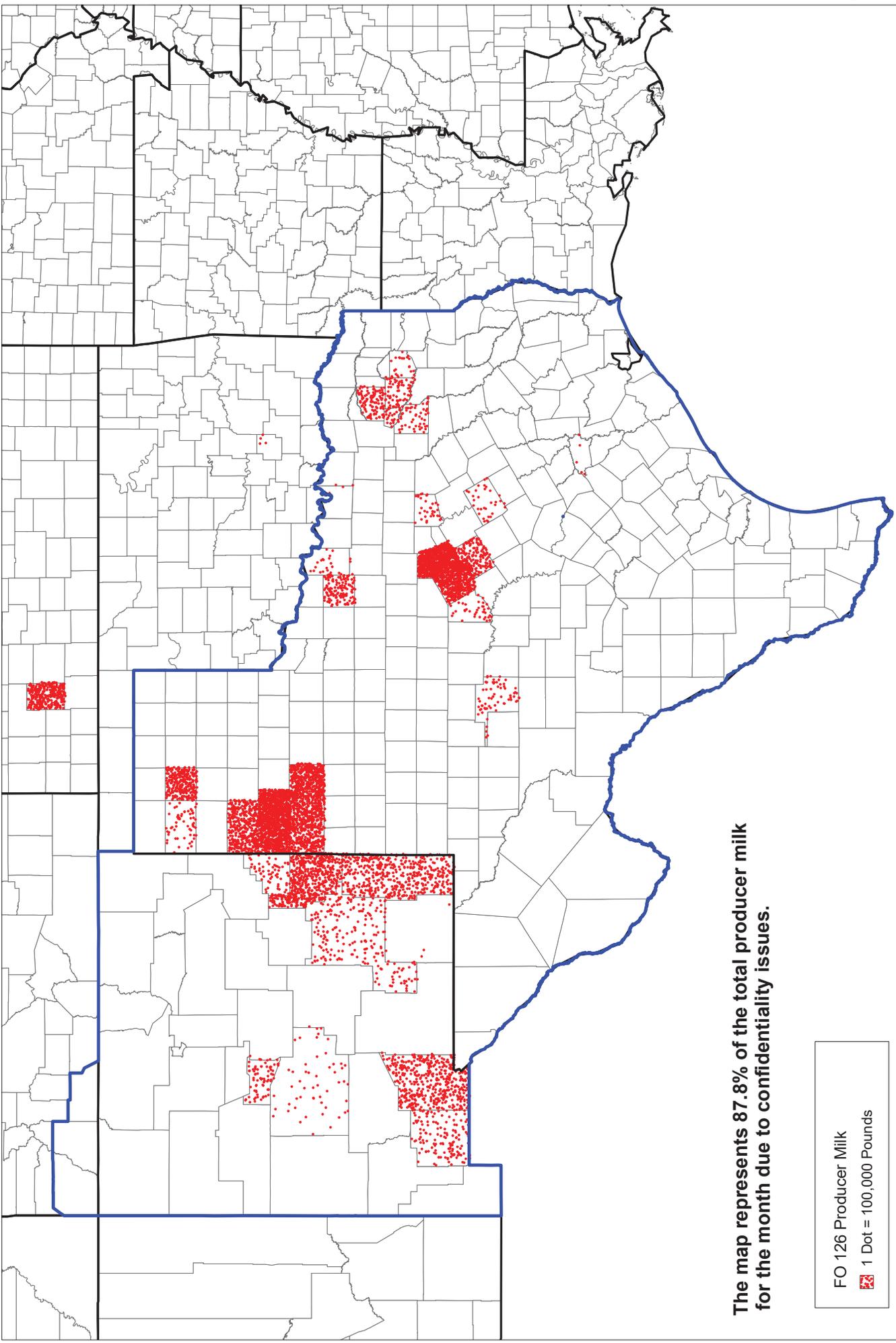
**Southwest Marketing Area Milkshed
Federal Order No. 126
December 2016**



The map represents 92.6% of the total producer milk for the month due to confidentiality issues.

FO 126 Producer Milk
1 Dot = 100,000 Pounds

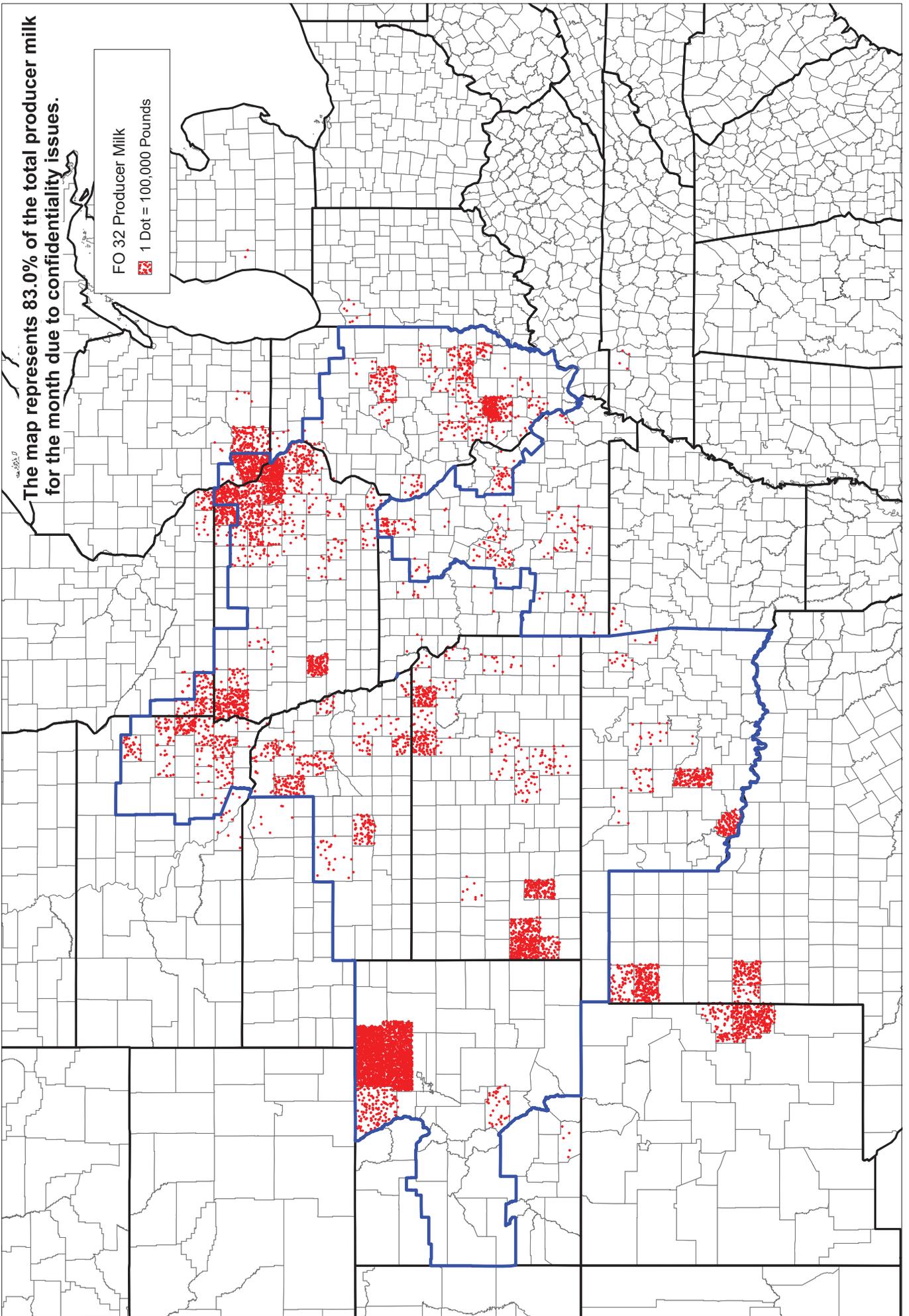
**Southwest Marketing Area Milkshed
Federal Order No. 126
May 2017**



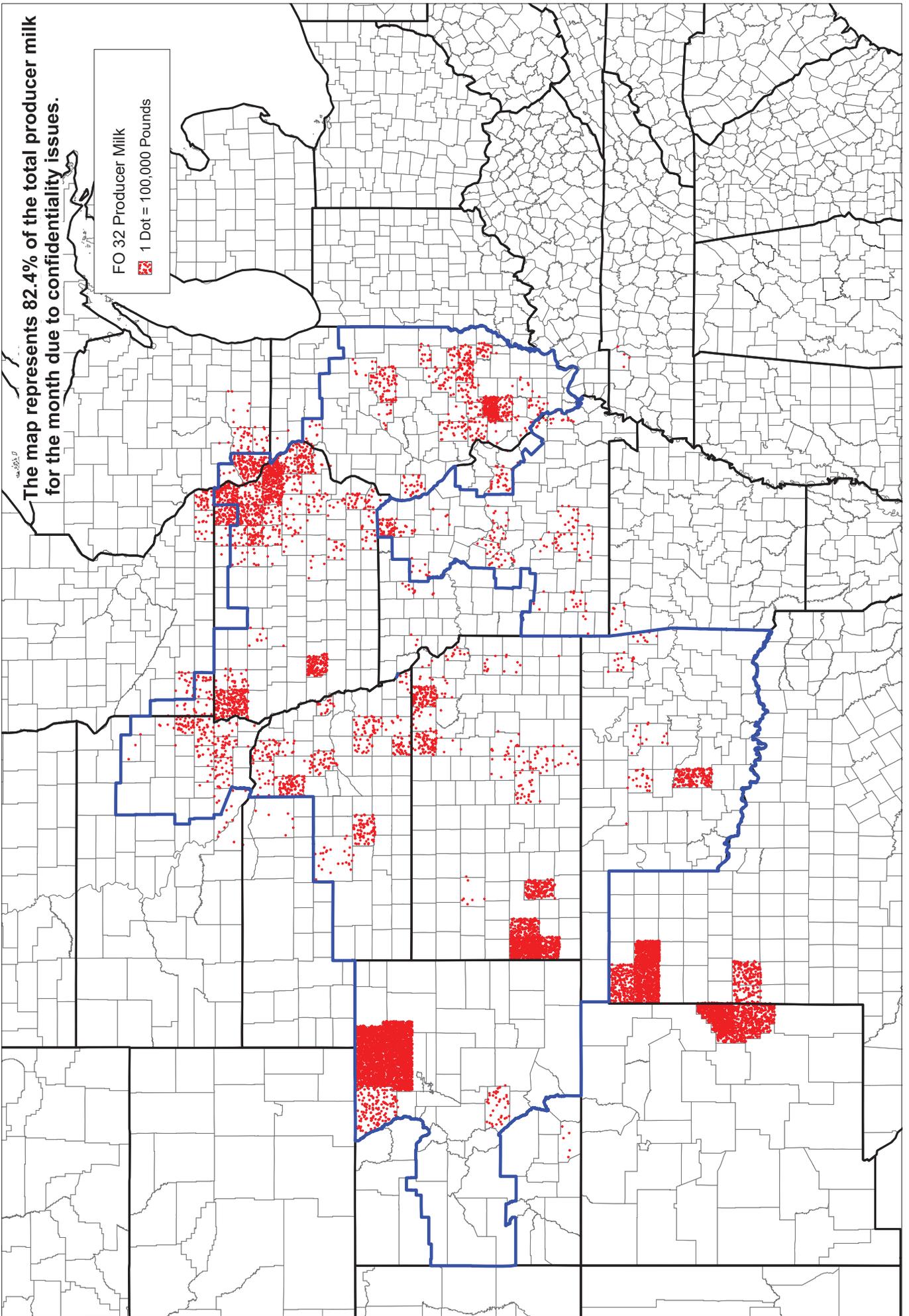
The map represents 87.8% of the total producer milk for the month due to confidentiality issues.

FO 126 Producer Milk
1 Dot = 100,000 Pounds

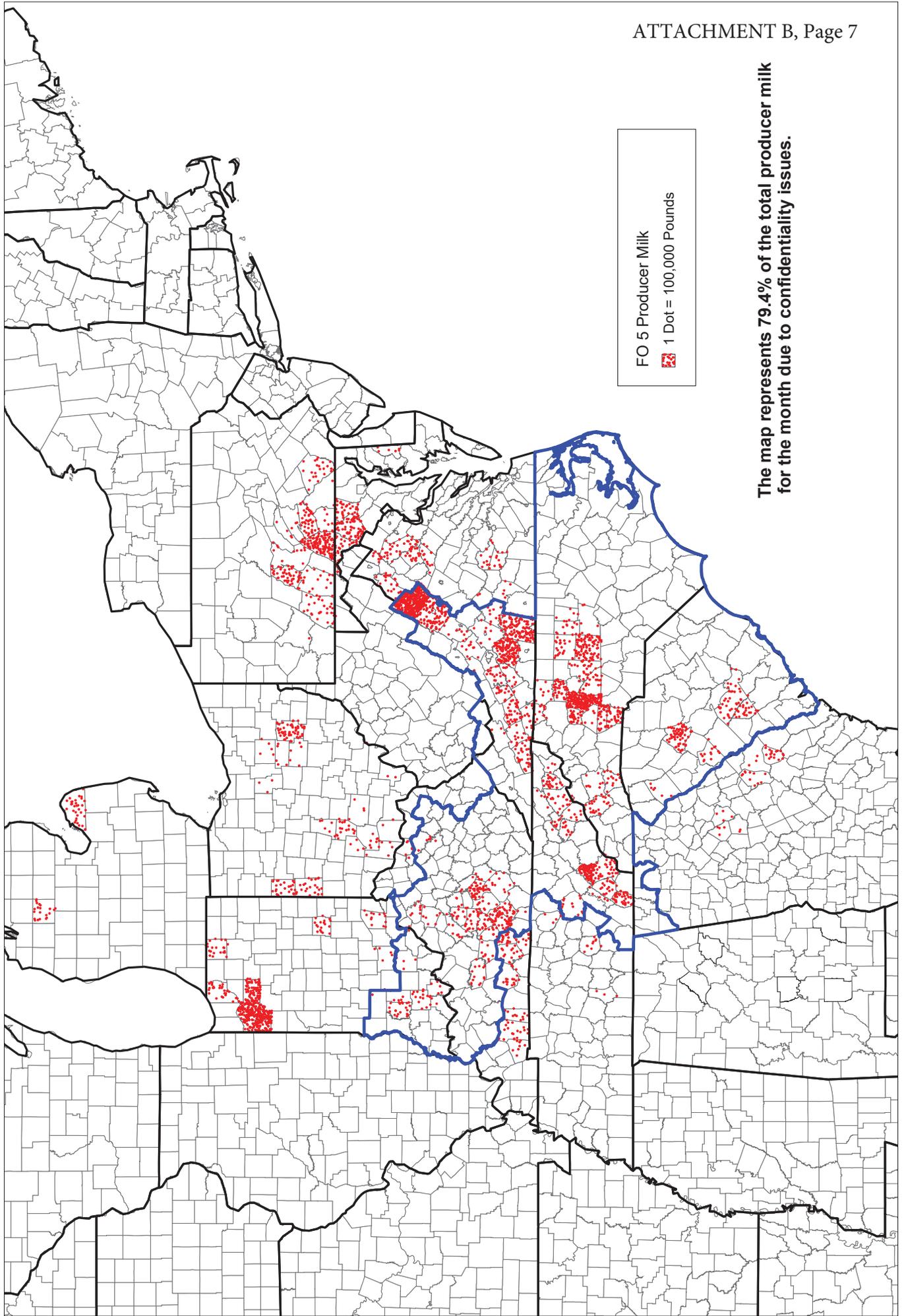
**Central Marketing Area Milkshed
Federal Order No. 32
December 2016**



**Central Marketing Area Milkshed
Federal Order No. 32
May 2017**



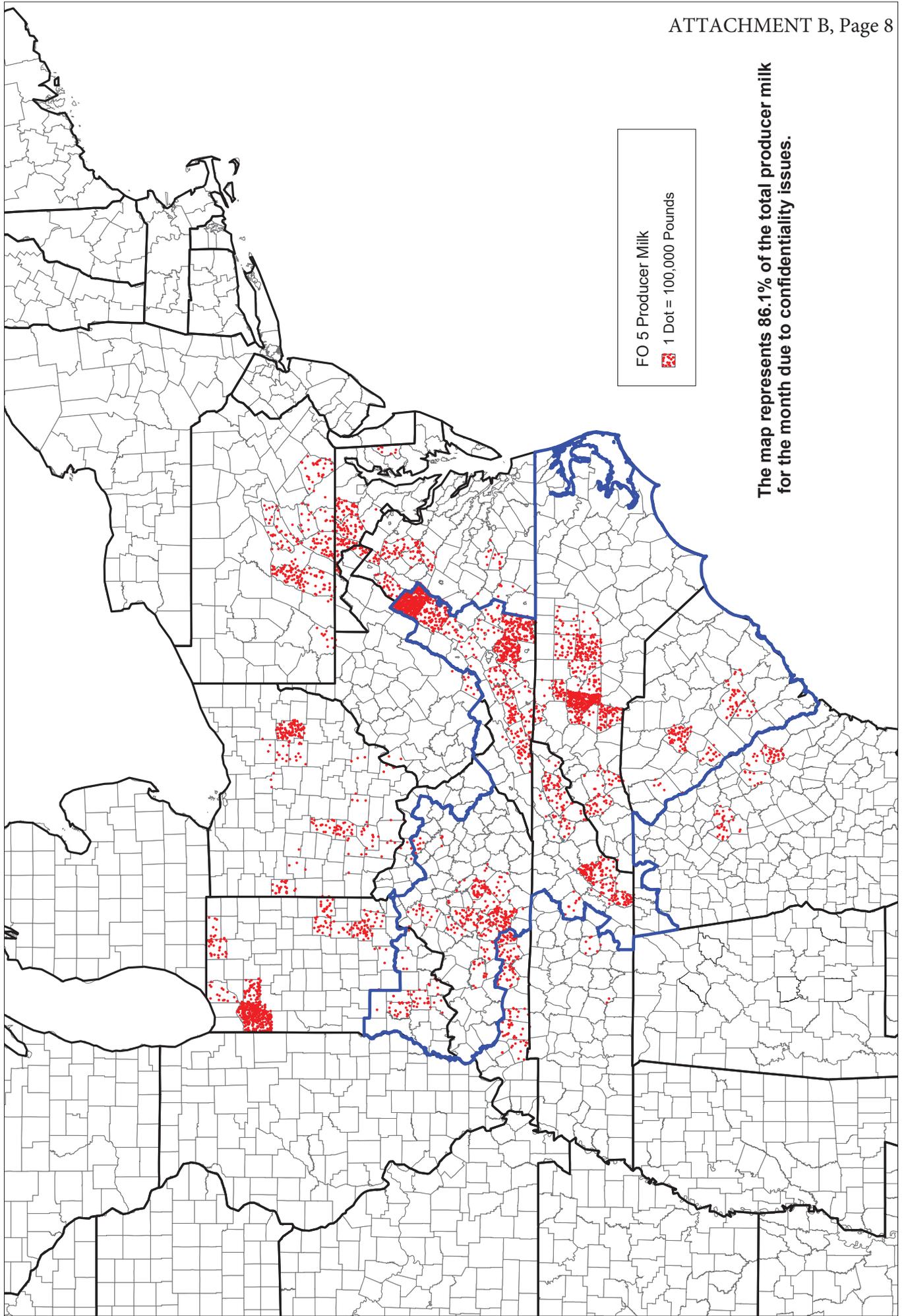
**Appalachian Marketing Area Milkshed
Federal Order No. 5
December 2016**



FO 5 Producer Milk
1 Dot = 100,000 Pounds

The map represents 79.4% of the total producer milk for the month due to confidentiality issues.

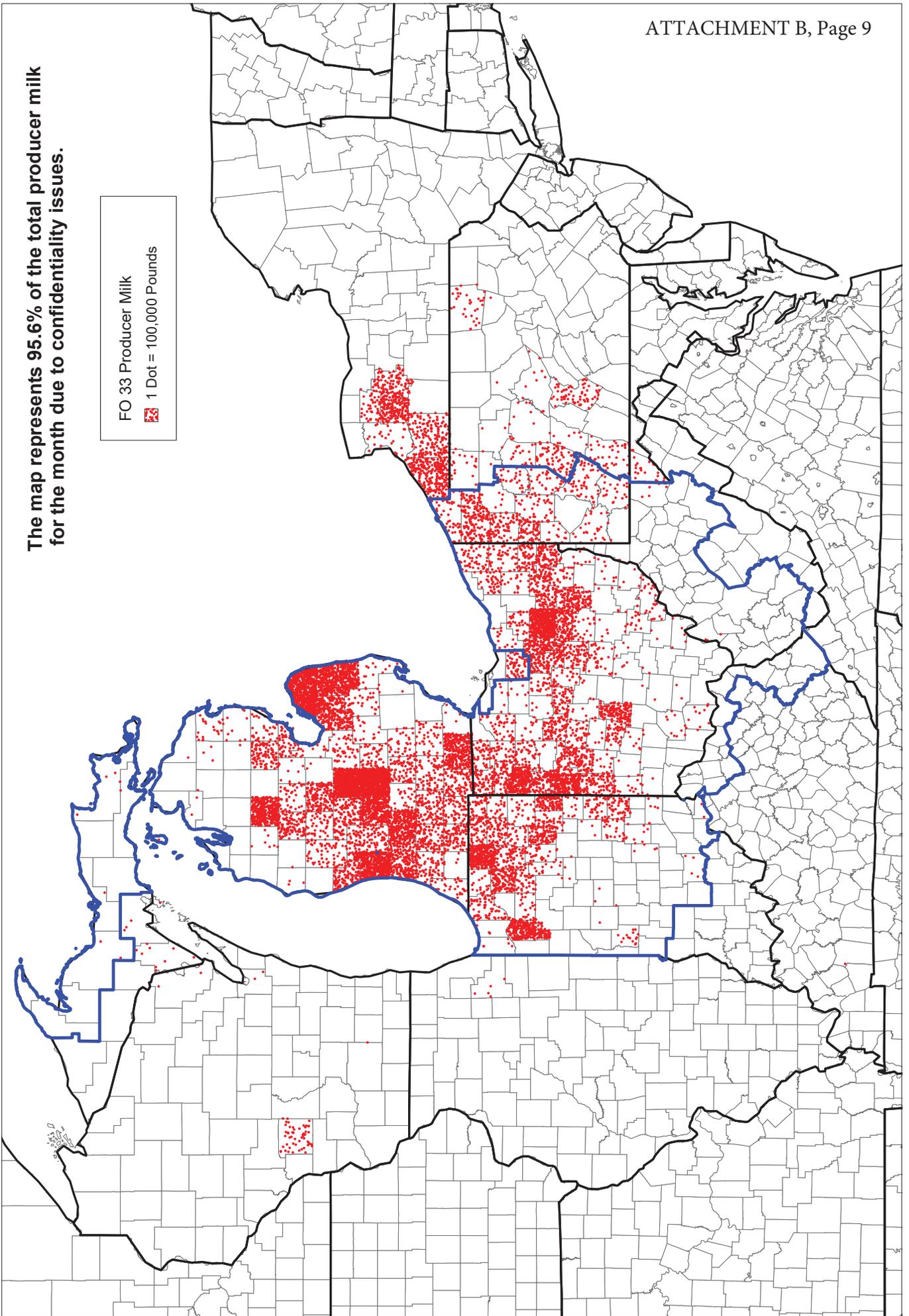
**Appalachian Marketing Area Milkshed
Federal Order No. 5
May 2017**



**Mideast Marketing Area Milkshed
Federal Order No. 33
December 2016**

The map represents 95.6% of the total producer milk for the month due to confidentiality issues.

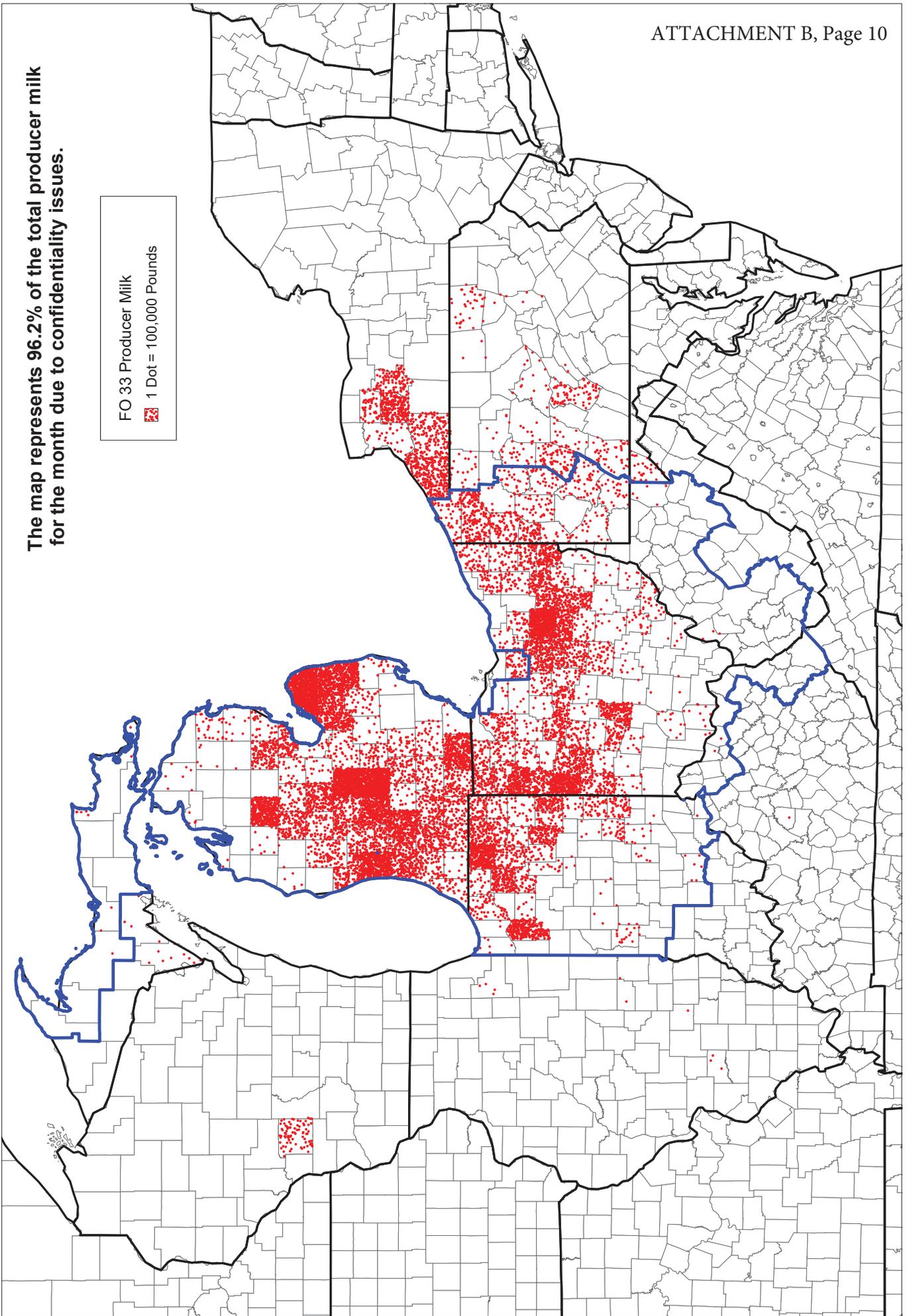
FO 33 Producer Milk
1 Dot = 100,000 Pounds



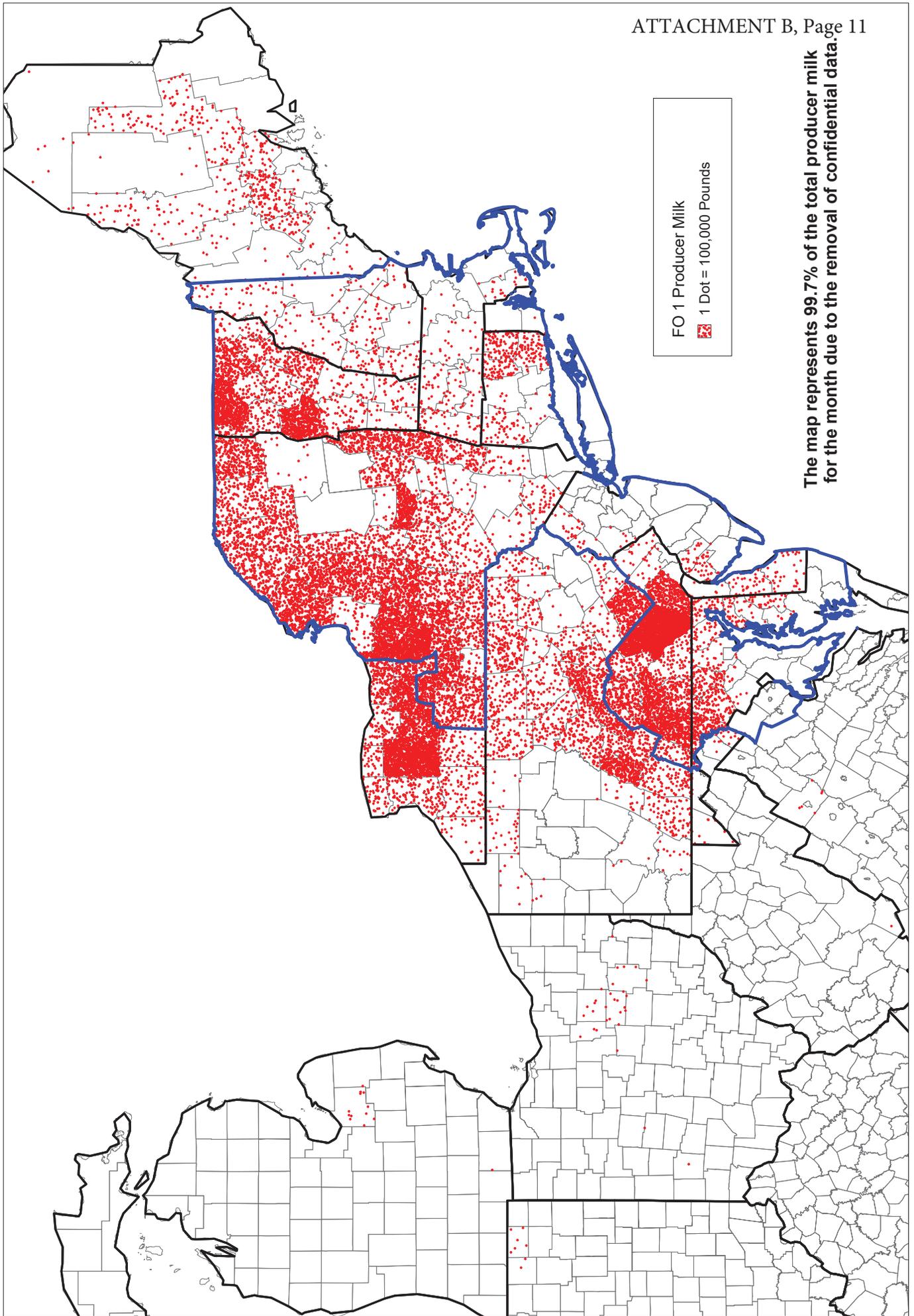
**Mideast Marketing Area Milkshed
Federal Order No. 33
May 2017**

The map represents 96.2% of the total producer milk for the month due to confidentiality issues.

FO 33 Producer Milk
1 Dot = 100,000 Pounds

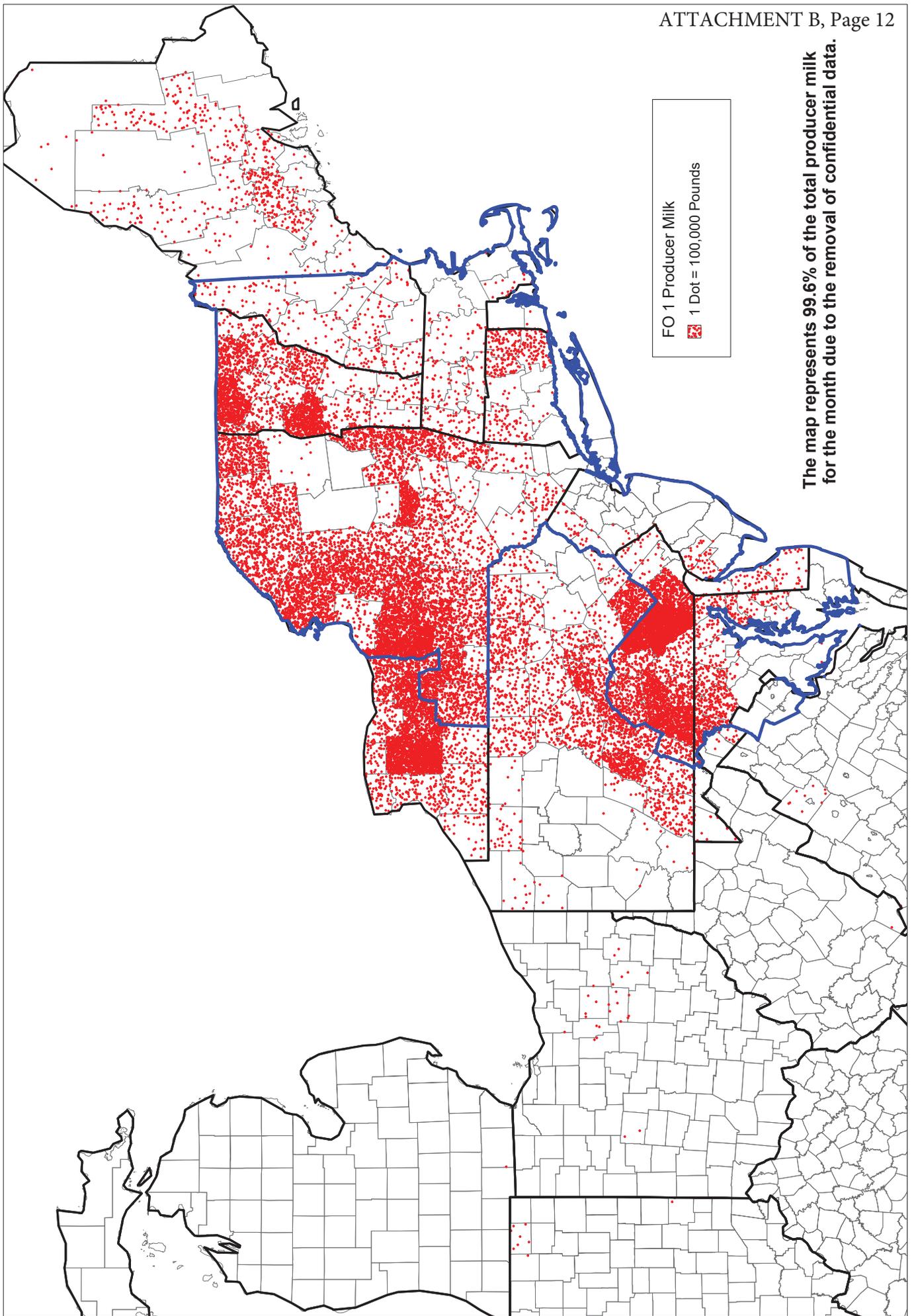


**Northeast Marketing Area Milkshed
Federal Order No. 1
December 2016**



The map represents 99.7% of the total producer milk for the month due to the removal of confidential data.

**Northeast Marketing Area Milkshed
Federal Order No. 1
May 2017**



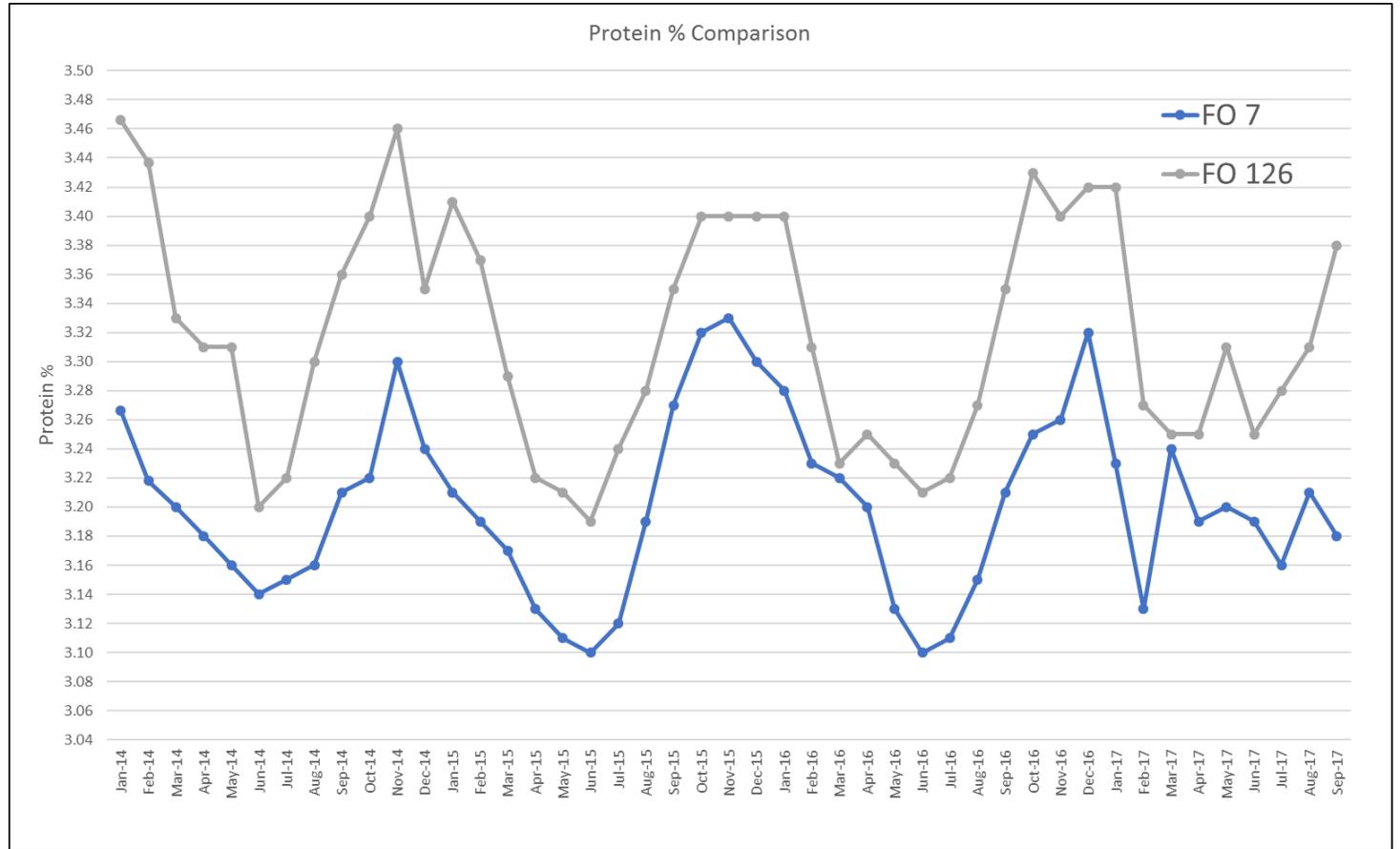
The map represents 99.6% of the total producer milk for the month due to the removal of confidential data.

Attachment C				
Discontinued Non-Pool Plants in Orders 5 and 7 (2000 - 2014)				
<u>Order 5</u>				<u>Years Received</u>
	<u>Plant</u>	<u>City</u>	<u>State</u>	<u>Diverted Milk</u>
	Costal Dairy	Wilson	NC	2000
	Crowley Foods	Bristol	VA	2002-2009
	Gethsemani Farms	Trappist	KY	2000-2010
	Graham Cheese	Elnora	IN	2006
	Knoxville Processing	Knoxville	TN	2008
	Level Valley	Antioch	TN	2000-2012
	Middlebrook Cheese	Middlebrook	VA	2004-2006
	Nestle Frozen Foods	Gaffney	SC	2008
	Winn Dixie Dairy	High Point	NC	2005
<u>Order 7</u>				<u>Years Received</u>
	<u>Plant</u>	<u>City</u>	<u>State</u>	<u>Diverted Milk</u>
	Alexander Bowen - Impex, Inc.		LA	2007, 2010-2013
	Barber Ice Cream		AL	2000-2002
	Blue Bell Creamery		AL	2000, 2002, 2003
	California Natural Products		GA	2003-2006
	Chicary Farm		LA	2003, 2004
	Country Girls Creamery		MS	2010, 2011, 2013
	Dairy Fresh Ice Cream		AL	2000-2003
	Eskimo Pie		AR	2002-2007, 2010
	Etowah Maid		GA	2009
	Hatcher Family Dairy		TN	2009-2012
	Hershey Foods		GA	2002, 2003
	Humphreys		AR	2000-2013
	JD Country Milk		KY	2001, 2012
	Kennys Farmhouse Cheese		KY	2000-2013
	Level Valley Creamery		TN	2000-2012
	Mauthes Dairy LLC		LA	2002-2005, 2009-2013
	Memory Lane Dairy		MO	2004, 2005, 2011, 2012
	Milk Products of Alabama, LLC		AL	2000-2010
	Mississippi State University		MS	2001-2005
	Morningstar Foods dba Milk Prod		AL	2004, 2008-2012
	Mountain Springs Creamery		AR	2004-2007
	Newborn Dairy		GA	2008-2010
	Rocking R Dairy		MS	2011, 2012
	Savannah Manufacturing Company		GA	2000, 2001
	Seven Doves Creamery		AR	2007-2009
	Shoals Cheese		AL	2000, 2001
	Smith Creamery LLC		LA	2008, 2010, 2011
	Southern Ice Cream		GA	2000-2002, 2013
	Wright Dairy LLC		AL	2000-2006
Southeast region manufacturing plant closings in recent years were obtained via emails on December 22, 2014, from the Market Administrators of Federal Orders 5 and 7.				

ATTACHMENT D

	FO 7	FO 126	Difference
Jan-14	3.27	3.47	0.20
Feb-14	3.22	3.44	0.22
Mar-14	3.20	3.33	0.13
Apr-14	3.18	3.31	0.13
May-14	3.16	3.31	0.15
Jun-14	3.14	3.20	0.06
Jul-14	3.15	3.22	0.07
Aug-14	3.16	3.30	0.14
Sep-14	3.21	3.36	0.15
Oct-14	3.22	3.40	0.18
Nov-14	3.30	3.46	0.16
Dec-14	3.24	3.35	0.11
Jan-15	3.21	3.41	0.20
Feb-15	3.19	3.37	0.18
Mar-15	3.17	3.29	0.12
Apr-15	3.13	3.22	0.09
May-15	3.11	3.21	0.10
Jun-15	3.10	3.19	0.09
Jul-15	3.12	3.24	0.12
Aug-15	3.19	3.28	0.09
Sep-15	3.27	3.35	0.08
Oct-15	3.32	3.40	0.08
Nov-15	3.33	3.40	0.07
Dec-15	3.30	3.40	0.10
Jan-16	3.28	3.40	0.12
Feb-16	3.23	3.31	0.08
Mar-16	3.22	3.23	0.01
Apr-16	3.20	3.25	0.05
May-16	3.13	3.23	0.10
Jun-16	3.10	3.21	0.11
Jul-16	3.11	3.22	0.11
Aug-16	3.15	3.27	0.12
Sep-16	3.21	3.35	0.14
Oct-16	3.25	3.43	0.18
Nov-16	3.26	3.40	0.14
Dec-16	3.32	3.42	0.10
Jan-17	3.23	3.42	0.19
Feb-17	3.13	3.27	0.14
Mar-17	3.24	3.25	0.01
Apr-17	3.19	3.25	0.06
May-17	3.20	3.31	0.11
Jun-17	3.19	3.25	0.06
Jul-17	3.16	3.28	0.12
Aug-17	3.21	3.31	0.10
Sep-17	3.18	3.38	0.20
Average	3.20	3.32	0.12
2014 Average	3.20	3.35	0.14
2015 Average	3.20	3.31	0.11
2016 Average	3.21	3.31	0.11
2017 Average	3.19	3.30	0.11

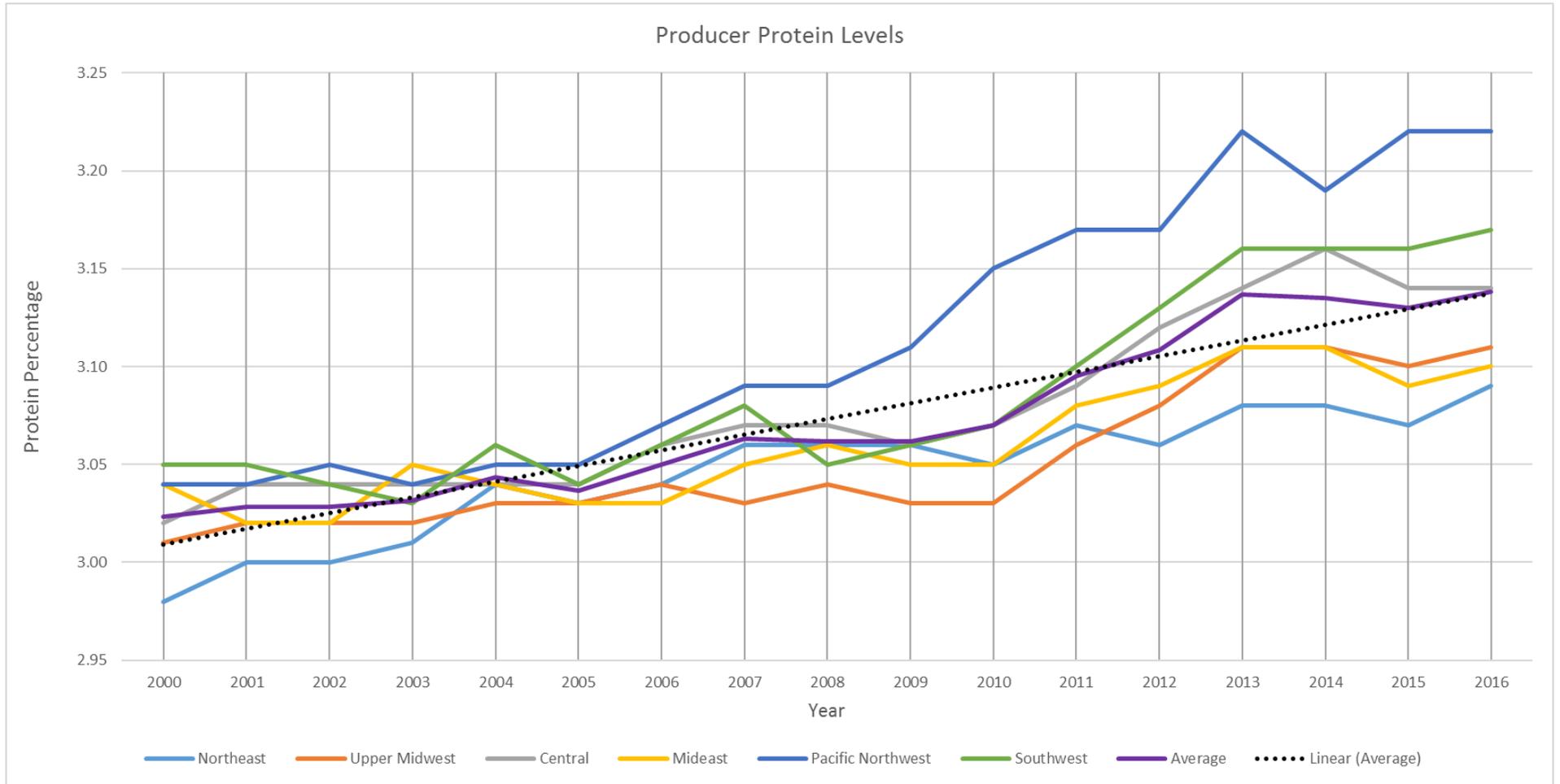
East Texas milk protein percent pooled in Order 7 & Order 126



Source: The monthly pounds and component tests for producer milk produced in FO 126 area 5N and pooled on Federal Order 7 and FO 126 are based on producer weights data provided by the handlers to the FO 126 Market Administrator.

Attachment E						
Protein Test by State and Federal Order 2014-2016*						
State	Order 5	Order 7	Order 1	Order 32	Order 33	Order 126
Alabama		3.098%				
Florida		(29) 3.023%				(4) 3.004%
Georgia	3.076%	3.035%				(7) 3.069%
Indiana	3.057%	3.065%			3.130%	
Kansas		(20) 3.137%		3.149%		3.244%
Kentucky	3.074%	3.052%				
Louisiana		3.160%				(6) 3.206%
Maryland	3.061%		3.000%			
Michigan	(24) 3.068%	(4) 3.009%			3.099%	
Mississippi		(33) 3.165%				
Missouri		3.168%		3.180%		3.155%
North Carolina	3.015%	(6) 2.986%				
Ohio	3.049%	3.122%			3.110%	
Oklahoma		(10) 3.094%		3.129%		3.137%
Pennsylvania	3.049%		3.090%		3.100%	
South Carolina	3.140%	(8) 3.134%				
Tennessee	3.005%					
Texas		3.212%		3.389%		3.214%
Virginia	3.018%		3.110%			
* If data not available for all 36 months, the number of months included shown in ()						
Data shown in Attachment E obtained from Data Request (Orders 5 and 7) and via emails from						
Market Administrators for Orders 1, 32, 33 and 126.						

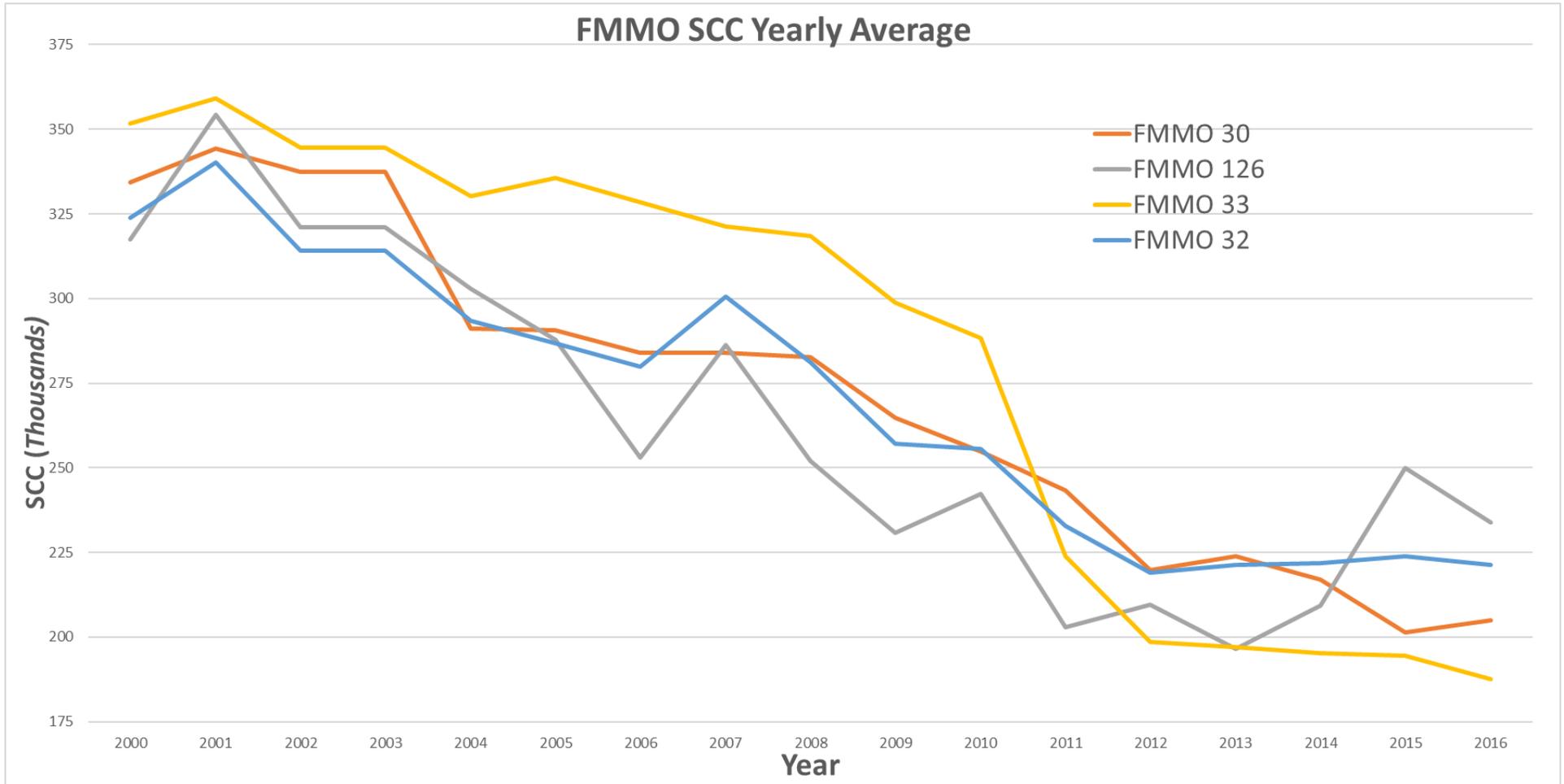
ATTACHMENT F



Sources:

Central Marketing Area Federal Milk Marketing Order 32, Statistical Reports, Statistical Data (2011-2016), <https://www.fmmacentral.com/PDFdata/historical2016.pdf>
 Central Marketing Area Federal Milk Marketing Order 32, Statistical Reports, Statistical Data (2000-2011), <https://www.fmmacentral.com/PDFdata/2011book.pdf>
 Mideast Marketing Area Federal Milk Marketing Order 33, Statistical Reports, Monthly Newsletter, <http://www.fmmaclev.com/NEWTemplateMonthlyNewsletter.htm>
 Northeast Marketing Area Federal Milk Marketing Order 1, Market Administrator's Monthly Statistical Report, http://www.fmmone.com/NE_Statistical_Handbook/NEStatHandbook2000-present.XLS
 Pacific Northwest & Arizona Marketing Areas Federal Milk Marketing Orders 124 & 131, Statistical Reports, Compilation of the Pacific Northwest Order's (FO 124) Statistical Material, <http://www.fmmaseattle.com/statisticalreport.html>
 Southwest Marketing Area Federal Milk Marketing Order 126, Price Announcements, Statistical Uniform Price, Monthly Data, http://www.dallasma.com/order_prices/producer_price_reports.jsp
 Upper Midwest Marketing Area Federal Milk Marketing Order 30, Statistical Reports, <http://www.fmma30.com/history.html>

ATTACHMENT G



Source:

Central Marketing Area Federal Milk Marketing Order 32, Statistical Reports, Statistical Data (2011-2016), <https://www.fmmacentral.com/PDFdata/historical2016.pdf>
Central Marketing Area Federal Milk Marketing Order 32, Statistical Reports, Statistical Data (2000-2011), <https://www.fmmacentral.com/PDFdata/2011book.pdf>
Midwest Marketing Area Federal Milk Marketing Order 33, Statistical Reports, Monthly Newsletter, <http://www.fmmaclev.com/NEWTemplateMonthlyNewsletter.htm>
Southwest Marketing Area Federal Milk Marketing Order 126, Price Announcements, Statistical Uniform Price, Monthly Data, http://www.dallasma.com/order_prices/producer_price_reports.jsp
Upper Midwest Marketing Area Federal Milk Marketing Order 30, Statistical Reports, <http://www.fmma30.com/history.html>



Richard Sparrow
President

Charles Townsend, DVM
Vice-President

Kentucky Dairy Development Council

176 Pasadena Drive · Lexington, KY 40503

Phone: 859-516-1129 · Email: kydairy.org

Tom Hastings
Sec/Treasurer

Maury Cox
Executive Director

November 1, 2017

To Whom It May Concern:

On September 22, 2017, the Kentucky Dairy Development Council, Inc. Board of Directors voted to support potential changes in milk pricing in the Appalachian and Southeast Federal Milk Market Orders from the present “skimmed milk/butterfat” formulas to the “multiple component pricing” (MCP) structure.

The KDDC Board made this decision after careful examination of the effects based on studies and data provided from numerous sources including information from the Federal Orders 5 and 7 Market Administrators’ Offices. It is the thinking of the KDDC Board, MCP would bring the Southeast into a more seamless milk pricing structure compatible with most of the nation. Secondly, multiple component pricing will add value to more milk components than butterfat alone and incentivize milk quality by implementing a somatic cell count factor.



December 18, 2017

To Parties of Interest:

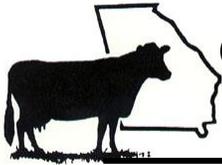
The Board of Directors, North Carolina Dairy Producers Association (NCDPA), voted to support changing Federal Orders 5 and 7 to the system of "multiple component pricing" versus the current "skimmed milk/butterfat" system on March 21, 2017.

NCDPA Board of Directors received information on component pricing and reviewed what NCDPA's position should be as we move forward at several meetings. Questions about "multiple component pricing" revolved around Federal Orders 5 & 7 benefits, mechanics of an order change, and possible benefits to dairymen in the southeast. The Board expresses support for the change as it offers a more seamless milk pricing structure between all Federal Orders and will add value to more milk components in addition to butterfat.

Sincerely,

A handwritten signature in black ink, appearing to read "Reid Smith", is written over the typed name. The signature is stylized and cursive.

Reid Smith
President



GEORGIA MILK PRODUCERS, INC.

1641 New High Shoals Road, Suite 5, Watkinsville, Georgia 30677
1-800-337-0555 or 1-706-310-0020, Fax 1-706-310-0025

August 21, 2017

Mr. Jon Bebermeyer
Director of Operations for Southeast Council
Dairy Farmers of America
1405 N. 98th St.
Kansas City KS 66111

Dear Mr. Bebermeyer:

As fluid consumption declines in the Southeast, dairy producers are exploring other product options to meet consumer preferences. Milk proteins and components have become key nutritional and value-added products in both the domestic and international markets. As demand for these products continues to grow, the Southeast must explore opportunities in manufacturing to remain competitive.

Federal Milk Marketing Order (FMMO) pricing in the Southeast is based solely on butterfat and skim pricing, while most Orders across the U.S. are based off multiple component pricing. Due to the volatile fluid milk market and its continuing downward trend over the last decade, the Southeast dairy industry must secure a pricing system that meets changing market trends. A change to component pricing would be a positive step for our producers and would encourage manufacturing plants to be built in the Southeast.

In light of these realities, Georgia Milk Producers would like to request that Dairy Farmers of America, Maryland & Virginia Milk Producers Cooperative Association, Southeast Milk, Inc., Premier Milk, Inc. and Lone Star Milk Producers, Inc. formally request a hearing with USDA to implement multiple component pricing in the Southeast.

Our organization realizes that changing our pricing structure will impact all producers in the Southeast and require producers to make management changes to receive greater returns from multiple component pricing. If implemented, Georgia Milk Producers would welcome the opportunity to host several educational programs to support their efforts to capture the economic incentives of component milk production.

The change to component pricing will provide new opportunities for the Southeast dairy industry. It also benefits consumers by encouraging production of the higher protein dairy products they desire. The Georgia Milk Producers' Board of Directors supports multiple component pricing in the Southeast and ask that your cooperative help to move this initiative forward. We appreciate the opportunity to express our concerns and any effort made by your cooperative to implement this change with USDA.

Sincerely,

Everett Williams
President

ATTACHMENT I

MILK IN THE APPALACHIAN MARKETING AREA, FEDERAL ORDER NO. 1005

DRAFT LANGUAGE FOR INSTALLATION OF MULTIPLE COMPONENT PRICING

*****CURRENT*****

§ 1005.13 Producer milk.

Except as provided for in paragraph (e) of this section, *Producer milk* means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of July through December, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of January through June, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month, excluding the total pounds of bulk milk received directly from producers meeting the conditions as described in

§ 1005.82(c)(2)(ii) and (iii), and for which a transportation credit is requested ;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1005.7(d)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c) and excluding the total pounds of bulk milk received directly from producers meeting the conditions as described in § 1005.82(c)(2)(ii) and (iii), and for which a transportation credit is requested;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative

association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

*******PROPOSED*******

§ 1005.13 Producer milk.

Except as provided for in paragraph (e) of this section, *Producer milk* means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of July through December, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of January through June, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month, excluding the total pounds of bulk milk received directly from producers meeting the conditions as described in

§ 1005.82(c)(2)(ii) and (iii), and for which a transportation credit is requested;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to

paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1005.7(e)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9(c) and excluding the total pounds of bulk milk received directly from producers meeting the conditions as described in § 1005.82(c)(2)(ii) and (iii), and for which a transportation credit is requested;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

*******CURRENT*******

§ 1005.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c);

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1007, for which a transportation credit is requested pursuant to § 1005.82;

(6) Receipts of producer milk described in § 1005.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1005.82, all of the information required in paragraphs (a)(5), (a)(6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

*******PROPOSED*******

§ 1005.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants the handler shall report the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p) contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c); and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk;

- (iii) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1007, for which a transportation credit is requested pursuant to § 1005.82;
- (iv) Receipts of producer milk described in § 1005.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;
- (v) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;
- (vi) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in receipts of milk from producers; and

(2) The utilization or disposition of such receipts.

(d) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1005.82, all of the information required in paragraphs (a)(2)(iii), (a)(2)(iv), and (a)(2)(v) of this section.

(e) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

*******CURRENT*******

§ 1005.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market

administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (e) of this section and subtracting from that total amount the value computed in paragraph (f) of this section. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts; except that for the months of January 2005 through March 2005, the Class I skim milk price for this purpose shall be the Class I skim milk price as determined in § 1000.50(b) plus \$0.04 per hundredweight, and the Class I butterfat price for this purpose shall be the Class I butterfat price as determined in § 1000.50(c) plus \$0.0004 per pound. The adjustments to the Class I skim milk and butterfat prices provided herein may be reduced by the market administrator for any month if the market administrator determines that the payments yet unpaid computed pursuant to paragraphs (g)(1) through (5) and paragraph (g)(7) of this section will be less than the amount computed pursuant to paragraph (g)(6) of this section. The adjustments to the Class I skim milk and butterfat prices provided herein during the months of January 2005 through March 2005 shall be announced along with the prices announced in §1000.53(b);

(b) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Multiply the difference between the Class IV price for the preceding month and the current month's Class I, II, or III price, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Multiply the Class I skim milk and Class I butterfat prices applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(f) For reconstituted milk made from receipts of nonfluid milk products, multiply \$1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d).

(g) For the months of January 2005 through March 2005 for handlers who have submitted proof satisfactory to the market administrator to determine eligibility for reimbursement of transportation costs, subtract an amount equal to:

(1) The cost of transportation on loads of producer milk delivered or rerouted to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(2) The cost of transportation on loads of producer milk delivered or rerouted to a pool supply plant that was then transferred to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(3) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from a pool supply plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(4) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from another order plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne; and

(5) The cost of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne.

(6) The total amount of payment to all handlers under this section shall be limited for each month to an amount determined by multiplying the total Class I producer milk for all handlers pursuant to § 1000.44(c) times \$0.04 per hundredweight.

(7) If the cost of transportation computed pursuant to paragraphs (g)(1) through (5) of this section exceeds the amount computed pursuant to paragraph (g)(6) of this section, the market administrator shall prorate such payments to each handler based on each handler's proportion of transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section. Transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section which are not paid as a result of such a proration shall be included in each subsequent month's transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section until paid, or until the time period for such payments has concluded.

(8) The reimbursement of transportation costs pursuant to this section shall be the actual demonstrated cost of such transportation of bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section, or the miles of transportation on loads of bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section multiplied by \$2.25 per loaded mile, whichever is less.

(9) For each handler, the reimbursement of transportation costs pursuant to paragraph (g) of this section for bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section shall be reduced by the amount of payments received for such milk movements from the transportation credit balancing fund pursuant to § 1005.82.

*******PROPOSED*******

§ 1005.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (i) of this section and subtracting from that total amount the value computed in paragraph (j) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of skim milk and butterfat referred to in this section shall result from the steps set forth in §1000.44(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such components in producer skim milk. Receipts

of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Class I value.

(1) Multiply the pounds of skim milk in Class I by the Class I skim milk price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I by the Class I butterfat price.

(3) Except that for the months of January 2005 through March 2005, the Class I skim milk price for this purpose shall be the Class I skim milk price as determined in § 1000.50(b) plus \$0.04 per hundredweight, and the Class I butterfat price for this purpose shall be the Class I butterfat price as determined in § 1000.50(c) plus \$0.0004 per pound. The adjustments to the Class I skim milk and butterfat prices provided herein may be reduced by the market administrator for any month if the market administrator determines that the payments yet unpaid computed pursuant to paragraphs (k)(1) through (k)(5) and paragraph (k)(7) of this section will be less than the amount computed pursuant to paragraph (k)(6) of this section. The adjustments to the Class I skim milk and butterfat prices provided herein during the months of January 2005 through March 2005 shall be announced along with the prices announced in §1000.53(b);

(b) Class II value.

(1) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class II times the Class II butterfat price.

(c) Class III value.

(1) Multiply the pounds of protein in Class III skim milk by the protein price;

(2) Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) Class IV value.

(1) Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

(e) Compute an adjustment for the somatic cell content of producer milk by multiplying the values reported pursuant to § 1005.30 (a)(1) and (c)(1) by the percentage of total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) and the corresponding step of § 1000.44(b) by the skim milk prices and butterfat prices applicable to each class.

(g) Multiply the difference between the current month's Class I, II, or III price, as the case may be, and the Class IV price for the preceding month by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from plants regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants.

(i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(j) For reconstituted milk made from receipts of nonfluid milk products, multiply \$1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d).

(k) For the months of January 2005 through March 2005 for handlers who have submitted proof satisfactory to the market administrator to determine eligibility for reimbursement of transportation costs, subtract an amount equal to:

(1) The cost of transportation on loads of producer milk delivered or rerouted to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(2) The cost of transportation on loads of producer milk delivered or rerouted to a pool supply plant that was then transferred to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(3) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from a pool supply plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(4) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from another order plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne; and

(5) The cost of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne.

(6) The total amount of payment to all handlers under this section shall be limited for each month to an amount determined by multiplying the total Class I producer milk for all handlers pursuant to § 1000.44(c) times \$0.04 per hundredweight.

(7) If the cost of transportation computed pursuant to paragraphs (k)(1) through (k)(5) of this section exceeds the amount computed pursuant to paragraph (k)(6) of this section, the market administrator shall prorate such payments to each handler based on each handler's proportion of transportation costs submitted pursuant to paragraphs (k)(1) through (k)(5) of this section. Transportation costs submitted pursuant to paragraphs (k)(1) through (k)(5) of this section which are not paid as a result of such a proration shall be included in each subsequent month's transportation costs submitted pursuant to paragraphs (k)(1) through (k)(5) of this section until paid, or until the time period for such payments has concluded.

(8) The reimbursement of transportation costs pursuant to this section shall be the actual demonstrated cost of such transportation of bulk milk delivered or rerouted as described in paragraphs (k)(1) through (k)(5) of this section, or the miles of transportation on loads of bulk milk delivered or rerouted as described in paragraphs (k)(1) through (k)(5) of this section multiplied by \$2.25 per loaded mile, whichever is less.

(9) For each handler, the reimbursement of transportation costs pursuant to paragraph (k) of this section for bulk milk delivered or rerouted as described in paragraphs (k)(1) through (k)(5) of this section shall be reduced by the amount of payments received for such milk movements from the transportation credit balancing fund pursuant to § 1005.82.

*******CURRENT*******

§ 1005.61 Computation of uniform prices.

On or before the 11th day of each month, the market administrator shall compute a uniform butterfat price, a uniform skim milk price, and a uniform price for producer milk receipts reported for the prior month. The report of any handler who has not made payments required pursuant to § 1005.71 for the preceding month shall not be included in the computation of these prices, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

(a) Uniform butterfat price. The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be computed by:

(1) Multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices;

(2) Adding the butterfat value calculated in § 1005.60(e) for other source milk allocated to Class I pursuant to § 1000.43(d) and the steps of § 1000.44(b) that correspond to § 1000.44(a)(3)(i) and § 1000.44(a)(8) by the Class I price; and

(3) Dividing the sum of paragraphs (a)(1) and (a)(2) of this section by the sum of the pounds of butterfat in producer milk and other source milk used to calculate the values in paragraphs (a)(1) and (a)(2) of this section.

(b) Uniform skim milk price. The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(1) Combine into one total the values computed pursuant to § 1005.60 for all handlers;

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1005.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract the value of the total pounds of butterfat for all handlers. The butterfat value shall be computed by multiplying the sum of the pounds of butterfat in producer milk and other source milk used to calculate the values in paragraphs (a)(1) and (a)(2) of this section by the butterfat price computed in paragraph (a) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total skim pounds of producer milk; and

(ii) The total skim pounds for which a value is computed pursuant to § 1005.60(e); and

(6) Subtract not less than 4 cents and not more than 5 cents.

(c) Uniform price. The uniform price per hundredweight, rounded to the nearest cent, shall be the sum of the following:

(1) Multiply the uniform butterfat price for the month pursuant to paragraph (a) of this section times 3.5 pounds of butterfat; and

(2) Multiply the uniform skim milk price for the month pursuant to paragraph (b) of this section times 96.5 pounds of skim milk.

*******PROPOSED*******

§ 1005.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to §1005.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to §1005.60 for all handlers required to file reports prescribed in §1005.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to §1005.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to §1005.30(a)(1) and (c)(1);

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to §1005.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to §1005.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

*******CURRENT*******

§ 1005.62 Announcement of uniform prices.

On or before the 11th day after the end of the month, the market administrator shall announce the uniform prices for the month computed pursuant to § 1005.61.

*******PROPOSED*******

§ 1005.62 Announcement of producer prices.

On or before the 11th day after the end of each month, the market administrator shall announce the following prices and information:

(a) The producer price differential;

(b) The protein price;

(c) The nonfat solids price;

(d) The other solids price;

(e) The butterfat price;

(f) The somatic cell adjustment rate;

(g) The average butterfat, protein, nonfat solids, and other solids content of producer milk; and

(h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

*******CURRENT*******

§ 1005.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk of the handler for the month as determined pursuant to § 1005.60; and

(b) The sum of the value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1005.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1005.60(e).

*******PROPOSED*******

§ 1005.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1005.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1005.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1005.60(i) by the producer price differential as adjusted pursuant to § 1005.75 for the location of the plant from which received.

*******CURRENT*******

§ 1005.73 Payments to producers and to cooperative associations.

(a) Each handler that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1005.75 and proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, a payment computed as follows shall be made so that it is received by each producer one day after the payment date required in § 1005.72:

(i) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(ii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iii) Multiply the hundredweight of producer milk received times the plant location adjustment pursuant to § 1005.75; and

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each handler shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1005.75.

(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month

from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available for skim milk and butterfat at the receiving plant's location.

(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of skim milk and butterfat assigned to each class pursuant to § 1000.44 by the class prices for the month at the receiving plant's location, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1005.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to the order in this part;

- (5) The rate used in making payment if the rate is other than the applicable minimum rate;
- (6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and
- (7) The net amount of payment to the producer or cooperative association.

*******PROPOSED*******

§ 1005.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than 90 percent of the preceding month's statistical uniform price, adjusted for plant location pursuant to § 1005.75 and proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1005.72, in an amount not less than the following computation:

(i) Multiply the hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1005.75;

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(iii) Multiply the pounds of protein received times the protein price for the month;

(iv) Multiply the pounds of other solids received times the other solids price for the month;

(v) Multiply the hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Add the amounts computed in paragraphs (a)(2)(i) through (v) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer subject to approval by the market administrator; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section each handler shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by not less than 90 percent of the preceding month's statistical uniform price, adjusted for plant location pursuant to § 1005.75.

(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available at the receiving plant's location.

(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I prices to be used shall be the prices effective at the location of the receiving plant;

(ii) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price;

(iii) Multiply the pounds of butterfat in Class II times the Class II butterfat price;

(iv) Multiply the pounds of nonfat solids in Class IV times the nonfat solids price;

(v) Multiply the pounds of butterfat in Class III and Class IV milk times the butterfat price;

(vi) Multiply the pounds of protein in Class III milk times the protein price;

(vii) Multiply the pounds of other solids in Class III milk times the other solids price;

(viii) Multiply the hundredweight of Class II, Class III, and Class IV milk times the somatic cell adjustment; and

(ix) Add together the amounts computed in paragraphs (b)(3)(i) through (viii) of this section and from that sum deduct any payments made pursuant to paragraph (b)(2) of this section.

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an

amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1005.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;

(4) The somatic cell count of the producer's milk;

(5) The minimum rate or rates at which payment to the producer is required pursuant to the order in this part;

(6) The rate used in making payment if the rate is other than the applicable minimum rate;

(7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and

(8) The net amount of payment to the producer or cooperative association

ATTACHMENT J

MILK IN THE SOUTHEAST MARKETING AREA, FEDERAL ORDER NO. 1007

DRAFT LANGUAGE FOR INSTALLATION OF MULTIPLE COMPONENT PRICING

*******CURRENT*******

§ 1007.13 Producer milk.

Except as provided for in paragraph (e) of this section, producer milk means the skim milk (or the skim equivalent of components of skim milk) and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of January through June, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of July through December, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month, excluding the total pounds of bulk milk received directly from producers meeting for conditions as described in § 1007.82 (c)(2)(ii) and (iii), and for which a transportation credit is requested;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1007.7 (e)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9 (c), excluding the total pounds of bulk milk received directly from producers meeting for conditions as described in § 1007.82 (c)(2)(ii) and (iii), and for which a transportation credit is requested;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

*******PROPOSED*******

§ 1007.13 Producer milk.

Except as provided for in paragraph (e) of this section, producer milk means the skim milk (or the skim equivalent of components of skim milk), including nonfat components, and butterfat contained in milk of a producer that is:

(a) Received by the operator of a pool plant directly from a producer or a handler described in § 1000.9(c). All milk received pursuant to this paragraph shall be priced at the location of the plant where it is first physically received;

(b) Received by a handler described in § 1000.9(c) in excess of the quantity delivered to pool plants;

(c) Diverted by a pool plant operator to another pool plant. Milk so diverted shall be priced at the location of the plant to which diverted; or

(d) Diverted by the operator of a pool plant or a handler described in § 1000.9(c) to a nonpool plant, subject to the following conditions:

(1) In any month of January through June, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(2) In any month of July through December, not less than 1 days' production of the producer whose milk is diverted is physically received at a pool plant during the month;

(3) The total quantity of milk so diverted during the month by a cooperative association shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month, excluding the total pounds of bulk milk received directly from producers meeting for conditions as described in § 1007.82 (c)(2)(ii) and (iii), and for which a transportation credit is requested;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d) of this section. The total quantity of milk so diverted during the month shall not exceed 25 percent during the months of July through November, January, and February, and 35 percent during the months of December and March through June of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to § 1007.7 (e)) during the month, excluding the quantity of producer milk received from a handler described in § 1000.9 (c), excluding the

total pounds of bulk milk received directly from producers meeting for conditions as described in § 1007.82 (c)(2)(ii) and (iii), and for which a transportation credit is requested;

(5) Any milk diverted in excess of the limits prescribed in paragraphs (d)(3) and (4) of this section shall not be producer milk. If the diverting handler or cooperative association fails to designate the dairy farmers' deliveries that will not be producer milk, no milk diverted by the handler or cooperative association shall be producer milk;

(6) Diverted milk shall be priced at the location of the plant to which diverted; and

(7) The delivery day requirements and the diversion percentages in paragraphs (d)(1) through (4) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

*******CURRENT*******

§ 1007.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants, the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c);

(2) Receipts of milk from handlers described in § 1000.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1005, for which a transportation credit is requested pursuant to § 1007.82;

(6) Receipts of producer milk described in § 1007.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

(8) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products; and

(9) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a)(1), (a)(2), (a)(3), (a)(4), and (a)(8) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

- (1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;
- (2) The utilization or disposition of all such receipts; and
- (3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1007.82, all of the information required in paragraph (a)(5), (a) (6), and (a)(7) of this section.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

*******PROPOSED*******

§ 1007.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 7th day after the end of the month, in the detail and on prescribed forms, as follows:

(a) With respect to each of its pool plants the handler shall report the following information:

(1) Product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p) contained in or represented by:

(i) Receipts of producer milk, including producer milk diverted by the reporting handler, from sources other than handlers described in § 1000.9(c); and

(ii) Receipts of milk from handlers described in § 1000.9(c);

(2) Product pounds and pounds of butterfat contained in:

(i) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(ii) Receipts of other source milk;

(i) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Order 1005, for which a transportation credit is requested pursuant to § 1007.82;

(ii) Receipts of producer milk described in § 1007.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

- (iii) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;
- (iv) Inventories at the beginning and end of the month of fluid milk products and bulk fluid cream products;

(3) The utilization or disposition of all milk and milk products required to be reported pursuant to this paragraph; and

(4) Such other information with respect to the receipts and utilization of skim milk, butterfat, milk protein, other nonfat solids, and somatic cell information, as the market administrator may prescribe.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. The report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1000.9(c) shall report:

(1) The product pounds, pounds of butterfat, pounds of protein, pounds of solids-not-fat other than protein (other solids), and the value of the somatic cell adjustment pursuant to § 1000.50(p), contained in receipts of milk from producers; and

(2) The utilization or disposition of such receipts.

(d) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1007.82, all of the information required in paragraphs (a)(2)(iii), (a)(2)(iv), and (a)(2)(v) of this section.

(e) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to its receipts and utilization of milk and milk products in such manner as the market administrator may prescribe.

*******CURRENT*******

§ 1007.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (e) of this section and subtracting from that total amount the value computed in paragraph (f) of this section. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) by the applicable skim milk and butterfat prices, and add the resulting amounts; except that for the months of January 2005 through March 2005, the Class I skim milk price for this purpose shall be the Class I skim milk price as determined in § 1000.50(b) plus \$0.04 per hundredweight, and the Class I butterfat price for this purpose shall be the Class I butterfat price as determined in § 1000.50(c) plus \$0.0004 per pound. The adjustments to the Class I skim milk and butterfat prices provided herein may be reduced by the market administrator for any month if the market administrator determines that the payments yet unpaid computed pursuant to paragraphs (g)(1) through (5) and paragraph (g)(7) of this section will be less than the amount computed pursuant to paragraph (g)(6) of this section. The adjustments to the Class I skim milk and butterfat prices provided herein during the months of January 2005 through March 2005 shall be announced along with the prices announced in §1000.53(b);

(b) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) by the respective skim milk and butterfat prices applicable at the location of the pool plant;

(c) Multiply the difference between the Class IV price for the preceding month and the current month's Class I, II, or III price, as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(d) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants;

(e) Multiply the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(f) For reconstituted milk made from receipts of nonfluid milk products, multiply \$1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1000.43(d).

(g) For the months of January 2005 through March 2005 for handlers who have submitted proof satisfactory to the market administrator to determine eligibility for reimbursement of transportation costs, subtract an amount equal to:

(1) The cost of transportation on loads of producer milk delivered or rerouted to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(2) The cost of transportation on loads of producer milk delivered or rerouted to a pool supply plant that was then transferred to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(3) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from a pool supply plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(4) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from another order plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne; and

(5) The cost of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne.

(6) The total amount of payment to all handlers under this section shall be limited for each month to an amount determined by multiplying the total Class I producer milk for all handlers pursuant to § 1000.44(c) times \$0.04 per hundredweight.

(7) If the cost of transportation computed pursuant to paragraphs (g)(1) through (5) of this section exceeds the amount computed pursuant to paragraph (g)(6) of this section, the market administrator shall prorate such payments to each handler based on each handler's proportion of transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section. Transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section which are not paid as a result of such a proration shall be included in each subsequent month's transportation costs submitted pursuant to paragraphs (g)(1) through (5) of this section until paid, or until the time period for such payments has concluded.

(8) The reimbursement of transportation costs pursuant to this section shall be the actual demonstrated cost of such transportation of bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section, or the miles of transportation on loads of bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section multiplied by \$2.25 per loaded mile, whichever is less.

(9) For each handler, the reimbursement of transportation costs pursuant to paragraph (g) of this section for bulk milk delivered or rerouted as described in paragraphs (g)(1) through (5) of this section shall be reduced by the amount of payments received for such milk movements from the transportation credit balancing fund pursuant to § 1007.82.

*******PROPOSED*******

§ 1007.60 Handler's value of milk.

For the purpose of computing a handler's obligation for producer milk, the market administrator shall determine for each month the value of milk of each handler with respect to each of the handler's pool plants and of each handler described in § 1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in paragraphs (a) through (i) of this section and subtracting from that total amount the value computed in paragraph (j) of this section. Unless otherwise specified, the skim milk, butterfat, and the combined pounds of skim milk and butterfat referred to in this section shall result from the steps set forth in §1000.44(a), (b), and (c), respectively, and the nonfat components of producer milk in each class shall be based upon the proportion of such components in producer skim milk. Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under § 1000.76(a)(4) or (d) shall be excluded from pricing under this section.

(a) Class I value.

(1) Multiply the pounds of skim milk in Class I by the Class I skim milk price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class I by the Class I butterfat price.

(3) Except that for the months of January 2005 through March 2005, the Class I skim milk price for this purpose shall be the Class I skim milk price as determined in § 1000.50(b) plus \$0.04 per hundredweight, and the Class I butterfat price for this purpose shall be the Class I butterfat price as determined in § 1000.50(c) plus \$0.0004 per pound. The adjustments to the Class I skim milk and butterfat prices provided herein may be reduced by the market administrator for any month if the market administrator determines that the payments yet unpaid computed pursuant to paragraphs (k)(1) through (k)(5) and paragraph (k)(7) of this section will be less than the amount computed pursuant to paragraph (k)(6) of this section. The adjustments to the Class I skim milk and butterfat prices provided herein during the months of January 2005 through March 2005 shall be announced along with the prices announced in §1000.53(b);

(b) Class II value.

(1) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class II times the Class II butterfat price.

(c) Class III value.

(1) Multiply the pounds of protein in Class III skim milk by the protein price;

(2) Add an amount obtained by multiplying the pounds of other solids in Class III skim milk by the other solids price; and

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) Class IV value.

(1) Multiply the pounds of nonfat solids in Class IV skim milk by the nonfat solids price; and

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

(e) Compute an adjustment for the somatic cell content of producer milk by multiplying the values reported pursuant to § 1007.30 (a)(1) and (c)(1) by the percentage of total producer milk allocated to Class II, Class III, and Class IV pursuant to § 1000.44(c);

(f) Multiply the pounds of skim milk and butterfat overage assigned to each class pursuant to § 1000.44(a)(11) and the corresponding step of § 1000.44(b) by the skim milk prices and butterfat prices applicable to each class.

(g) Multiply the difference between the current month's Class I, II, or III price, as the case may be, and the Class IV price for the preceding month by the hundredweight of skim milk and butterfat subtracted from Class I, II, or III, respectively, pursuant to § 1000.44(a)(7) and the corresponding step of § 1000.44(b);

(h) Multiply the difference between the Class I price applicable at the location of the pool plant and the Class IV price by the hundredweight of skim milk and butterfat assigned to Class I pursuant to

§ 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(3)(i) through (vi) and the corresponding step of § 1000.44(b), excluding receipts of bulk fluid cream products from plants regulated under other Federal orders and bulk concentrated fluid milk products from pool plants, plants regulated under other Federal orders, and unregulated supply plants.

(i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(8) and the corresponding step of §1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(j) For reconstituted milk made from receipts of nonfluid milk products, multiply \$1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class IV price) by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to §1000.43(d).

(k) For the months of January 2005 through March 2005 for handlers who have submitted proof satisfactory to the market administrator to determine eligibility for reimbursement of transportation costs, subtract an amount equal to:

(1) The cost of transportation on loads of producer milk delivered or rerouted to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(2) The cost of transportation on loads of producer milk delivered or rerouted to a pool supply plant that was then transferred to a pool distributing plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(3) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from a pool supply plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne;

(4) The cost of transportation on loads of bulk milk delivered or rerouted to a pool distributing plant from another order plant which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne; and

(5) The cost of transportation on loads of bulk milk transferred or diverted to a plant regulated under another Federal order or to other nonpool plants which were delivered as a result of hurricanes Charley, Frances, Ivan, and Jeanne.

(6) The total amount of payment to all handlers under this section shall be limited for each month to an amount determined by multiplying the total Class I producer milk for all handlers pursuant to § 1000.44(c) times \$0.04 per hundredweight.

(7) If the cost of transportation computed pursuant to paragraphs (k)(1) through (k)(5) of this section exceeds the amount computed pursuant to paragraph (k)(6) of this section, the market administrator shall prorate such payments to each handler based on each handler's proportion of transportation costs submitted pursuant to paragraphs (k)(1) through (k)(5) of this section. Transportation costs submitted pursuant to paragraphs (k)(1) through (k)(5) of this section which are not paid as a result of such a proration shall be included in each subsequent month's transportation costs submitted pursuant to paragraphs (k)(1) through (k)(5) of this section until paid, or until the time period for such payments has concluded.

(8) The reimbursement of transportation costs pursuant to this section shall be the actual demonstrated cost of such transportation of bulk milk delivered or rerouted as described in paragraphs (k)(1) through (k)(5) of this section, or the miles of transportation on loads of bulk milk delivered or rerouted as described in paragraphs (k)(1) through (k)(5) of this section multiplied by \$2.25 per loaded mile, whichever is less.

(9) For each handler, the reimbursement of transportation costs pursuant to paragraph (g) of this section for bulk milk delivered or rerouted as described in paragraphs (k)(1) through (k)(5) of this section shall be reduced by the amount of payments received for such milk movements from the transportation credit balancing fund pursuant to § 1007.82.

*******CURRENT*******

§ 1007.61 Computation of uniform prices.

On or before the 11th day of each month, the market administrator shall compute a uniform butterfat price, a uniform skim milk price, and a uniform price for producer milk receipts reported for the prior month. The report of any handler who has not made payments required pursuant to §1007.71 for the preceding month shall not be included in the computation of these prices, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

(a) Uniform butterfat price. The uniform butterfat price per pound, rounded to the nearest one-hundredth cent, shall be computed by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1000.44(b) by the respective class butterfat prices and dividing the sum of such values by the total pounds of such butterfat.

(b) Uniform skim milk price. The uniform skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(1) Combine into one total the values computed pursuant to §1007.60 for all handlers;

(2) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to §1007.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract the value of the total pounds of butterfat for all handlers. The butterfat value shall be computed by multiplying the pounds of butterfat by the butterfat price computed in paragraph (a) of this section;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total skim pounds of producer milk; and

(ii) The total skim pounds for which a value is computed pursuant to § 1007.60(e); and

(6) Subtract not less than 4 cents not more than 5 cents.

(c) Uniform price. The uniform price per hundredweight, rounded to the nearest cent, shall be the sum of the following:

(1) Multiply the uniform butterfat price for the month pursuant to paragraph (a) of this section times 3.5 pounds of butterfat; and

(2) Multiply the uniform skim milk price for the month pursuant to paragraph (b) of this section times 96.5 pounds of skim milk.

*******PROPOSED*******

§ 1007.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to §1007.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to §1007.60 for all handlers required to file reports prescribed in §1007.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to §1007.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to §1007.30(a)(1) and (c)(1);

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to §1007.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to §1007.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

*******CURRENT*******

§ 1007.62 Announcement of uniform prices.

On or before the 11th day after the end of the month, the market administrator shall announce the uniform prices for the month pursuant to § 1007.61.

*******PROPOSED*******

§ 1007.62 Announcement of producer prices.

On or before the 11th day after the end of each month, the market administrator shall announce the following prices and information:

- (a) The producer price differential;
- (b) The protein price;
- (c) The nonfat solids price;
- (d) The other solids price;
- (e) The butterfat price;
- (f) The somatic cell adjustment rate;
- (g) The average butterfat, protein, nonfat solids, and other solids content of producer milk; and
- (h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

*******CURRENT*******

§ 1007.71 Payments to the producer-settlement fund.

Each handler shall make a payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in (a) of this section exceeds the amount specified in (b) of this section:

- (a) The total value of milk of the handler for the month as determined pursuant to § 1007.60; and
- (b) The sum of the value at the uniform prices for skim milk and butterfat, adjusted for plant location, of the handler's receipts of producer milk; and the value at the uniform price, as adjusted pursuant to § 1007.75, applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1007.60(e).

*******PROPOSED*******

§ 1007.71 Payments to the producer-settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except

as provided in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total value of milk to the handler for the month as determined pursuant to § 1007.60.

(b) The sum of:

(1) An amount obtained by multiplying the total hundredweight of producer milk as determined pursuant to § 1000.44(c) by the producer price differential as adjusted pursuant to § 1007.75;

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

(3) The total value of the somatic cell adjustment to producer milk; and

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1007.60(i) by the producer price differential as adjusted pursuant to § 1007.75 for the location of the plant from which received.

*******CURRENT*******

§ 1007.73 Payments to producers and to cooperative associations.

(a) Each handler that is not paying a cooperative association for producer milk shall pay each producer as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than the 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75 and proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, a payment computed as follows shall be made so that it is received by each producer one day after the payment date required in § 1007.72:

(i) Multiply the hundredweight of producer skim milk received times the uniform skim milk price for the month;

(ii) Multiply the pounds of butterfat received times the uniform butterfat price for the month;

(iii) Multiply the hundredweight of producer milk received times the plant location adjustment pursuant to § 1007.75; and

(iv) Add the amounts computed in paragraph (a)(2)(i), (ii), and (iii) of the section, and from that sum:

- (A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;
- (B) Subtract the deduction for marketing services pursuant to § 1000.86;
- (C) Add or subtract for errors made in previous payments to the producer; and
- (D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section, each handler shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by 90 percent of the preceding month's uniform price, adjusted for plant location pursuant to § 1007.75.

(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available for skim milk and butterfat at the receiving plant's location.

(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of skim milk and butterfat assigned to each class pursuant to § 1000.44 by the class prices for the month at the receiving plant's location, and subtracting from this sum the partial payment made pursuant to paragraph (b)(2) of this section.

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor

or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer- settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;

(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;

(3) The total pounds of butterfat in the producer's milk;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(5) The rate used in making payment if the rate is other than the applicable minimum rate;

(6) The amount, or rate per hundredweight, and nature of each deduction claimed by the handler; and

(7) The net amount of payment to the producer or cooperative association.

*******PROPOSED*******

§ 1007.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month at not less than 90 percent of the preceding month's statistical uniform price, adjusted for plant location pursuant to § 1007.75 and proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, payment shall be made so that it is received by each producer one day after the payment date required in § 1007.72, in an amount not less than the following computation:

(i) Multiply the hundredweight of producer milk received times the producer price differential for the month as adjusted pursuant to § 1007.75;

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(iii) Multiply the pounds of protein received times the protein price for the month;

(iv) Multiply the pounds of other solids received times the other solids price for the month;

(v) Multiply the hundredweight of milk received times the somatic cell adjustment for the month;

(vi) Add the amounts computed in paragraphs (a)(2)(i) through (v) of this section, and from that sum:

(A) Subtract the partial payment made pursuant to paragraph (a)(1) of this section;

(B) Subtract the deduction for marketing services pursuant to § 1000.86;

(C) Add or subtract for errors made in previous payments to the producer subject to approval by the market administrator; and

(D) Subtract proper deductions authorized in writing by the producer.

(b) One day before partial and final payments are due pursuant to paragraph (a) of this section each handler shall pay a cooperative association for milk received as follows:

(1) Partial payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to the hundredweight of milk received multiplied by not less than 90 percent of the preceding month's statistical uniform price, adjusted for plant location pursuant to § 1007.75.

(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator's estimated use value of the milk using the most recent class prices available at the receiving plant's location.

(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment for such receipts shall be determined as follows:

(i) Multiply the hundredweight of Class I skim milk times the Class I skim milk price for the month plus the pounds of Class I butterfat times the Class I butterfat price for the month. The Class I prices to be used shall be the prices effective at the location of the receiving plant;

(ii) Multiply the pounds of nonfat solids in Class II skim milk by the Class II nonfat solids price;

(iii) Multiply the pounds of butterfat in Class II times the Class II butterfat price;

(iv) Multiply the pounds of nonfat solids in Class IV times the nonfat solids price;

(v) Multiply the pounds of butterfat in Class III and Class IV milk times the butterfat price;

(vi) Multiply the pounds of protein in Class III milk times the protein price;

(vii) Multiply the pounds of other solids in Class III milk times the other solids price;

(viii) Multiply the hundredweight of Class II, Class III, and Class IV milk times the somatic cell adjustment; and

(ix) Add together the amounts computed in paragraphs (b)(3)(i) through (viii) of this section and from that sum deduct any payments made pursuant to paragraph (b)(2) of this section.

(4) Final payment to a cooperative association for bulk milk received directly from producers' farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to paragraph (a)(2) of this section.

(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. The payments shall be completed on the next scheduled payment date after receipt of the balance due from the market administrator.

(d) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer-settlement fund to the handler or to the lawful claimant as the case may be.

(e) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or (c), a supporting statement in such form that it may be retained by the recipient which shall show:

- (1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer;
- (2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received;
- (3) The total pounds of butterfat, protein, and other solids contained in the producer's milk;
- (4) The somatic cell count of the producer's milk;
- (5) The minimum rate or rates at which payment to the producer is required pursuant to the order in this part;
- (6) The rate used in making payment if the rate is other than the applicable minimum rate;
- (7) The amount, or rate per hundredweight, or rate per pound of component, and the nature of each deduction claimed by the handler; and
- (8) The net amount of payment to the producer or cooperative association.