



National All-Jersey Inc.

June 14, 2023

VIA E-MAIL: FMMOhearing@usda.gov

Deputy Administrator
USDA/AMS/Dairy Programs
STOP-02250, Room 2530
1400 Independence Avenue, SW
Washington, DC 20250-0225

Dear Deputy Administrator:

Thank you for the opportunity to submit additional proposals for consideration in a hearing to amend pricing provisions in all Federal Milk Marketing Orders (FMMO). I am submitting three proposals on behalf of National All-Jersey Inc. (NAJ). NAJ advocates the adoption of all three proposals, but each could be adopted individually.

NAJ was formed in 1957 by the American Jersey Cattle Association to promote equity in milk pricing. The nutrition, and therefore the value, of milk resides in its components: butterfat, protein, and other solids (lactose and minerals). Equitable milk pricing seeks to compensate producers for milk components in accordance with their use and value in consumer products.

For over 50 years, NAJ has advocated for not just Jersey producers, but all producers with above-average component milk. A national organization, today NAJ has 975 members who support equity in milk pricing and dairy policy. While a majority of these members are Jersey producers, approximately 25% of NAJ members own other breeds of dairy cows in addition to Jerseys.

NAJ carries out its mission through market development, milk price regulation, policy issues, research, industry relations and information and education. NAJ is a long-time associate member of both the National Milk Producers Federation (NMPF) and the International Dairy Foods Association (IDFA).



6486 East Main Street
Reynoldsburg Ohio 43068-2362

(614) 861-3636 phone
(614) 861-8040 fax
<http://naj.usjersey.com>

While NAJ has interest in all aspects of modernizing the Federal Milk Marketing Orders, the organization's priorities are as follows: (1) Updating the milk component factors for protein, other solids, and nonfat solids in the Class III and IV skim milk price formulas and increasing the frequency of such updates to annually with an appropriate lag to address time needed for risk management tools. (2) Establishing Class II, III, and IV payment requirements in FMMOs 5, 6, 7 and 131 based on multiple component pricing. (3) Establishing Class I payment requirements based on multiple component pricing instead of skim and butterfat in all FMMOs.

NAJ requested data from USDA/AMS/Dairy Program consisting of:

- Total monthly pounds of skim milk, protein, other solids, and nonfat solids,
- Pooled in each of Classes I, II, III, and IV,
- In each of the 11 federal orders,
- For the years 2019 through 2022.

NAJ's analysis of this data showed conclusively that producer skim milk components have increased well above the current skim component factors of 3.1 for protein, 5.9 for other solids, and 9.0 for nonfat used in the Class III and Class IV skim milk price formulas. NAJ agrees with NMPF's assertions that:

- The skim component factors used in price formulas should be reflective of actual skim components in producer milk.
- The current misalignment between skim components used in price formulas and actual skim components in producer milk causes Class I prices to be lower relative to manufacturing milk prices in all federal orders which increases the likelihood that manufacturing milk will be depooled.
- The current misalignment between skim components used in price formulas and actual skim components in producer milk causes Classes II, III, and IV to be undervalued in the four non-MCP orders.

However, NAJ's analysis also revealed that while overall skim component content has increased, there are significant differences in the skim components between classes and orders. The continued use of single, national skim component factors across all orders, even if updated

regularly, will result in class prices, primarily Class I, being misaligned with actual skim values. As a result, skim milk will continue to be overvalued and undervalued in many orders. Therefore, NAJ offers three proposals for consideration.

A. NAJ Proposal 1: Annually Update The Milk Component Factors For Protein, Other Solids, And Nonfat Solids In The Class III and Class IV Skim Milk Price Formulas

NAJ requests amendments to the milk component factors in the skim milk price formulas for Class III and Class IV such that they are updated annually in order to more accurately reflect the component content in the skim portion of producer milk.

NAJ's proposed amendment is set out here for consideration and is similar but not identical to NMPF's proposal. Both proposals seek to update milk component factors in the skim milk price formulas for Class III and Class IV by calculating the weighted average skim factors for all orders. This will also impact Class II. The proposals differ in that NMPF would update the factors every three years with a one-year lag and NAJ would update the factors annually with a one-year lag.

1. Proposed Order Language

§ 1000.50 Class prices, component prices, and advanced pricing factors.

(f) Class II nonfat solids price. The Class II nonfat solids price per pound rounded to the nearest one-hundredth cent, shall be the Class II skim milk price divided by ~~9~~ **the applicable nonfat solids component factor described in 1000.51.**

(i) Class III skim milk price. The Class III skim milk price per hundredweight, rounded to the nearest cent, shall be the protein price per pound times ~~3.4~~ **the applicable protein component factor described in § 1000.51** plus the other solids price per pound times ~~5.9~~ **the applicable other solids component factor described in § 1000.51.**

* * * * *

(k) Class IV skim milk price. The Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times ~~9~~ **the applicable nonfat solids component factor described in § 1000.51.**

* * * * *

(q) Advanced pricing factors.

(1) ...

(i) ...

(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by ~~3.1~~ **the applicable protein component factor described in § 1000.51;**

(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by ~~5.9~~ **the applicable other solids component factor described in § 1000.51;** and

(iv) ...

(2) ...

(i) ...

(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by ~~9~~ **the applicable nonfat solids component factor described in § 1000.51.**

* * * * *

§ 1000.51 [~~Reserved~~] **Milk Component Factors**

(1) Effective with milk marketed in January following the effective date of this section §1000.51, the component factors for protein, other solids and nonfat solids in this section 1000.51(1)(a)-(c) shall replace component factors for protein, other solids and nonfat solids for one calendar year, January through December, and thereafter, § 1000.51(2) shall establish the component factors for protein, other solids and nonfat solids applicable to §1000.50 annually thereafter as prescribed therein:

(a) Protein 3.39;

(b) Other solids 6.02; and

(c) Nonfat solids 9.41.

(2) The component factors in §1000.51(1)(a)-(c) shall be updated annually to reflect the weighted average component tests of producer milk in all Orders for the immediately preceding calendar year, January through December.

(3) The component factors for the immediately preceding calendar year as calculated in §1000.51(2) shall be calculated on or before the last business day of February and shall be utilized in §1000.50 for pricing effective in January of the subsequent year.

2. Justification for NAJ Proposal 1

National All-Jersey agrees with and supports NMPF's effort to update the milk component factors for protein, other solids, and nonfat solids in the Class III and Class IV skim milk price formulas. National All-Jersey agrees with the analysis presented by NMPF in favor of the proposed change.

When the component pricing factors in §1000.50 do not keep pace with actual components reflected in the marketplace, there is a misalignment between the value of milk to producers that is supplied to manufacturing in Multiple Component Pricing (MCP) orders (because the handler pays based on actual components in the milk they receive) and milk supplied to fluid milk plants where handlers pay based on the outdated lower component pricing factors in 1000.50. The misalignment between current actual skim milk components used in valuing manufacturing milk and outdated component factors used in valuing Class I milk (and manufacturing milk in the non-MCP orders), creates disorderly marketing conditions as discussed hereinbelow.

Attachment A, Skim Solids All Orders, All Classes, shows the national average skim component content from a USDA FMMO data request for the period of 2019 to 2022, as well as the most recent three-year average included in NMPF's proposal. A summary chart follows, which also lists the current component pricing factors utilized in 1000.50:

<u>Data Source</u>	<u>Protein</u>	<u>Other Solids</u>	<u>Nonfat Solids</u>
§1000.50	3.1%	5.90%	9.00%

2019	3.29%	6.00%	9.29%
2020	3.30%	6.01%	9.31%
2021	3.34%	6.01%	9.35%
2022	3.39%	6.02%	9.41%
NMPF	3.35%	6.01%	9.36%

The data shows that actual components have increased substantially above the current component pricing factors in §1000.50. The difference between the component pricing factors in §1000.50 and 2022 is material and, importantly, the difference between NMPF's proposal and NAJ's Proposal 1 is material as well.

The difference between NMPF's proposed component pricing factors using a three-year average that is updated every three years versus an annual update is material. If already implemented, the NMPF proposal would update the skim milk factors to the most current three-year average (2020 to 2022) beginning in 2024, and those factors would continue to be used until 2027. NAJ's proposed annual updates would utilize 2022's actual skim components in 2024 which exceed the NMPF's proposed three-year average. While 2024's advance component prices can't be known, based on 2022's prices of \$2.7098 for protein, \$0.4320 for other solids, and \$1.5135 for nonfat solids, the Class III advance skim price would be \$0.11/cwt. higher using annual updates versus a three-year average, and the Class IV advance skim price would be \$0.08/cwt. higher. Accordingly, the Class I skim price would be \$0.095/cwt. higher, which equates to \$38 million of Class I revenue when applied across 40 million pounds of pooled Class I skim.

Skim protein content increased 0.1% from 2019 to 2022. If protein's increasing trend continues, skim protein content will be approximately 3.44% by 2024. Based on NMPF's proposal, milk marketed in 2026 would utilize skim pricing factors of 3.3% protein, 6.0% other solids, and 9.3% nonfat solids as the last year that NMPF's proposed three-year average (2020 to 2022) would be in effect. Using NAJ's proposed annual update, the skim pricing factors in 2026

would be 3.44% protein, 6.02% other solids, and 9.46% nonfat solids based on projected 2024 components. The differences of 0.09% protein, 0.01% other solids, and 0.10% nonfat solids will have a material impact on Class III and IV skim prices. Furthermore, marketing milk in 2026 using skim pricing factors based on 2024 producer components instead of 2020 to 2022 components will keep skim milk prices better aligned with manufacturing milk given that manufacturing milk value will be based on actual component content.

Money moves milk. Given that producers have become more adept at producing higher component milk as evidenced by the above data, the fact that they can generate more value for their milk by supplying manufacturing in a MCP market versus a fluid milk plant or a manufacturing plant in a non-MCP market, means that the outdated components in §1000.50 incentivize producers to incur transportation costs and engage in milk movement that will maximize the value of their milk despite the needs of plants that are closer. It is the mark of disorderly marketing to have pricing that encourages the unnecessary movement of milk longer distances, injects unnecessary transportation costs into the system, and makes it more difficult for handlers, especially fluid milk handlers, to attract a milk supply. Indeed, this is at the heart of the uniform pricing requirement in the foundational legislation authorizing FMMOs.

3. §900.22 Proposal Submission Requirements for NAJ Proposal 1

(a) The proposal would update the skim milk component pricing factors in §1000.50 annually with 12-month lag. NAJ agrees with NMPF's explanation here. Specifically, the proposal is intended to address negative PPDs, depooling, and uneconomic milk movement that is undertaken to move higher component milk to other markets where producers are compensated based on actual components.

(b) The proposal would bring the relationship between manufacturing values and Class I values into closer alignment such that incentives to depool, the likelihood of negative PPDs and incentives to incur transportation costs to maximize producer revenue would be reduced.

(c) The FMMO milk component factors currently found in §1000.50 are 3.1 for protein, 5.9 for other solids and 9.0 for nonfat solids. These factors have been in place since

FMMO reform and do not reflect the composition of milk currently. The proposal would update these factors to the factors identified based on the weighted average in all FMMOs in 2022 and then would be updated annually using the immediately preceding year.

(d) The proposal is expected to make it less difficult for fluid milk plants to attract available milk that has higher component levels. The proposal is expected to reduce the incentive for manufactured milk to depool and reduce the incidence of negative PPDs by enhancing pool values and realigning the relationship between fluid milk and manufacturing milk values. The proposal is expected to increase the cost to processors and potentially to consumers as well. Initial impact will be \$0.52/cwt. for Class I for all orders, \$0.59/cwt. for Class III in the non-MCP orders, and \$0.46/cwt. for Class IV in the non-MCP orders. By building in a 10-month lag between announcing the updated factors and implementing them, this will mitigate the impact on risk management strategies.

(e) Small business producers would be expected to benefit from this proposal as it is expected to bring about more orderly marketing conditions and generate additional revenue for the FMMO pools, decrease the likelihood of negatives PPDs and depooling. In particular, producers serving the Class I market would be more likely to share in the value of manufacturing values to the extent depooling is reduced. Class I handlers and handlers involved with manufacturing in non-MCP orders would face higher costs, however, those higher costs would be expected to restore incentives for producers to supply their locations.

(f) In general, the proposal would increase milk price costs to fluid milk handlers and manufacturers in non-MCP orders. Those same handlers should experience a benefit in that producers will have greater incentives to supply those same handlers. To the extent this proposal will reduce the likelihood of negative PPDs and depooling, industry should experience a less logistics costs associated with the uneconomic movement of milk. There should be a minimal impact on the Dairy Programs other than a one-time update using data that is readily available to the Market Administrators.

(g) A pre-hearing information session would be helpful to explain the proposal, especially as it relates to the timing of the updates.

B. Proposal 2: Classes II, III, and IV in all orders to be valued on the actual pounds of protein, other solids, and nonfat solids pooled, including adjustments for Somatic Cell Count.

NMPF's proposal correctly explains that some of the current marketing and price dysfunction in the federally regulated milk order system is related to multiple component pricing (MCP) for most milk, and New Deal-era skim/butterfat pricing for non-MCP markets. NMPF observes:

- almost 90% of FMMO milk production use MCP.
- In the seven Federal Orders with MCP, increased protein and other solids component levels have led to skim milk prices increasing relative to the other four Federal Orders without MCP.
- manufacturing class prices undervalue producer milk in the non-MCP Federal Orders.
- this has reduced the revenue producers receive for all milk not paid for on a MCP basis.
- this also increases the cost of supplemental milk for the non-MCP, deficit fluid milk markets and reduces incentives to maintain or expand local milk production.

The NMPF proposal to update component pricing factors in §1000.50 and NAJ's Proposal 1, while certainly an improvement that is important to mitigating the current pricing disfunction and resultant disorderly marketing conditions, would indirectly and incompletely address the problems of continuing a non-MCP system for a small portion of national milk production. In order to improve the disequilibrium associated with MCP and non-MCP pricing further than NAJ Proposal 1 and NMPF's component pricing update proposal, it is also important that the Secretary establish MCP pricing for Classes II, III, and IV in the orders that remain non-MCP orders and that is NAJ's Proposal 2.

1. Proposed Language for NAJ Proposal 2

The proposal language for Proposal 2 is extensive so NAJ is including the proposal language for one of the four non-MCP orders as an example as an exhibit. See Attachment B, Sample MCP language for Classes II, III, and IV.

2. Justification for NAJ Proposal 2

NAJ proposes to amend the four remaining FMMOs that utilize skim and fat pricing instead of MCP so that they utilize MCP for Classes II, III, and IV. Those four orders are Orders 5, 6, 7 and 131.

The proposal would: (1) reduce wasteful transportation, handling and transaction costs associated with supplying raw milk to non-MCP orders that rely on milk from MCP orders, (2) provide MCP revenue benefits to producers, (3) restore uniform classified pricing for milk used to produce Class II, III and IV products, and (4) improve production market signals to dairy farmers.

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. For instance, 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 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.

Milk in the Chicago Regional and Other Marketing Area, 60 Fed. Reg. 41837(August 14, 1985).

Such marketing disorder has been observed 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. The southeast region relies on milk supplies from producers who have access to MCP markets. **Attachment C, Sources of Milk for FMMOs 5, 6, and 7.** 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 adjoining MCP and skim-butterfat markets are:

- There are incentives for milk assembly routes to be organized to collect lower protein milk for shipment to non-MCP markets when closer supplies, or more efficiently-assembled supplies, would be available but for the discouraging skim-butterfat price available for non-MCP market sales. **Attachment D, Map of Texas and Louisiana Milk Movement.**

- A graphic illustration of the result of these marketing practices, as measured by protein content of producer milk, is shown in **Attachment E**, East Texas Milk Pooled on FO 126 vs. FO 7, 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 D, Map of Texas and Louisiana Milk Movement**, shows milk from west Texas regularly supplying Order 7. If MCP existed in Order 7, additional East Texas milk would have incentive to serve Order 7 markets thereby eliminating the need to move as much milk from west Texas and the associated greater hauling costs.

- When procurement of milk with average or above average protein content from farms in MCP markets is necessary to serve a non-MCP market, the cooperative typically compensates 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 non-MCP market, thereby reducing funds available cooperative members without the regulatory assurance of recovery of that amount.

- In order to retain supplies of high protein producer milk from farms within the non-MCP 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 non-MCP market. This creates additional and non-uniform procurement costs, created by the regulatory structure, on some handlers.

- If out-of-area producer milk pooled on a non-MCP market is above average protein, the non-MCP 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 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.

As frequently explained in the agency's milk order decisions, FMMO changes are appropriate when market or regulatory signals create, rather than mitigate, disorderly marketing.

3. § 900.22 Proposal Submission Requirements for NAJ Proposal 2

a) NAJ is proposing that MCP is extended to the last four FMMOs that are pricing based on skim and butterfat. This proposal would help mitigate disorderly marketing in that there is currently an economic incentive for higher composition milk to stay out or move out of non-MCP regions. This results in the uneconomic movement of milk whereby nearby milk might travel to further destinations seeking MCP pricing. Converting the last four FMMO's will reduce these incentives. The proposal will also mitigate inequity among producers who receive regulated revenue not commensurate with the value of milk components they produce; handlers operating under conflicting pricing rules when procuring milk from multiple markets; and nonuniform classified prices for milk used to produce manufactured products.

b) The purpose of NAJ Proposal 2 is extend MCP pricing on Classes II, III, and IV to all FMMOs in order to mitigate the incentives that arise and have arisen to move high component milk into MCP orders and lower component milk into non-MCP orders among other things.

c) Current Federal order provisions require skim milk and butterfat pricing and accounting for producer milk in four of the eleven FMMOs. The other seven orders use MCP for Classes II, III and IV. Manufacturers generally value and pay for milk based on their butterfat, protein and nonfat solids content. Manufacturers in non-MCP markets must bear extra costs from transportation, component content, and source of supply when procuring milk due to the incentives available in MCP markets.

d) The proposal is expected to benefit producers by generating revenue associated with actual components, reducing transportation costs associated with moving higher component milk to MCP markets and lower component milk to non-MCP markets. Manufacturers may or may not face higher costs as the reflection of actual composition should generally increase the price for manufacturing milk, but transportation costs should be reduced. There are also costs associated with equipment needed for testing, but because manufacturing has migrated toward valuing skim components, such equipment is in place in many cases and existing government labs may be able to serve as a backstop. Handlers will additionally benefit by a common system of accounting, producer payroll, and FMMO pool reports.

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 remaining FMMOs will decrease costs to handlers and cooperatives supplying the non-MCP markets by reducing transportation costs, among others. The proposal could 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, although the Market Administrator may need to support additional testing.

g) A pre-hearing information session would be useful to explain this proposal.

C. NAJ Proposal 3 – Class I in all orders to be valued on the actual pounds of protein, other solids, and nonfat solids pooled.

NAJ proposes to amend all FMMOs to implement MCP for Class I.

1. NAJ Proposal 3 Proposed Languages

§ 1000.70 Producer-settlement fund

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which the market administrator shall deposit all payments made by handlers pursuant to §§ _____.71, _____.76, and _____.77 of each Federal milk order and out of which the market administrator shall make all payments pursuant to §§ _____.72 and _____.77 of each Federal milk order. Payments due any handler shall be offset by any payments due from that handler.

The total value of milk of the handler for the month to which § _____.71 of each Federal milk order applies shall be further adjusted by the following calculation:

- a. for producer milk in Class I determine the percent content of nonfat solids, protein and other solids in skim milk;
- b. for months in which the applicable Class I skim price is based upon protein and other solids value pursuant to §1000.50(q)(1),
 - (i) calculate the value of the handler's Class I skim milk based on §1000.50(q)(1) protein and other solids prices and component factors determined pursuant to §1000.51,
 - (ii) calculate the value of the handler's Class I skim milk based §1000.50(q)(1) protein and other solids prices and on actual protein and other solids content in such skim milk,
 - (iii) subtract the calculated value of the handler's Class I skim milk based on actual protein and other solids content from the calculated value of the skim milk based on §1000.51 component factors. The total value of milk of the handler for the month shall be reduced by the difference (if positive) or be increased by any negative difference.
- c. for months in which the applicable Class I skim price is based upon nonfat solids value pursuant to §1000.50(q)(2),
 - (i) calculate the value of the handler's Class I skim milk based on §1000.50(q)(2) nonfat solids price and component factor determined pursuant to §1000.51,
 - (ii) calculate the value of the handler's Class I skim milk based §1000.50(q)(2) nonfat solids price and on actual nonfat solids content in such skim milk,
 - (iii) subtract the calculated value of the handler's Class I skim milk based on actual nonfat solids content from the calculated value of the skim milk based on §1000.51 component factors. The total value of milk of the handler for the month shall be reduced by the difference (if positive) or be increased by any negative difference.

The aforementioned proposed language would implement MCP in Class I nationally by amending a uniform provision in part 1000.70. Alternatively, amending part 60 of each FMMO could implement MCP for Class I as well. Using 1001.60, as an example, the language could be as follows:

§ 1001.60 Handler's value of milk.

(a) Class I value. (1) Multiply the pounds of ~~skim milk in Class I by the Class I skim milk price~~ **protein in Class I by the advance protein price, plus multiply the pounds of other solids in Class I by the advance other solids price (if Class III is higher) or Multiply the pounds of nonfat solids in Class I by the advance nonfat solids price (if Class IV is higher); and**

If the 'average of' is retained/updated, then the equation becomes the average of Class III and Class IV value, plus the volume of Class I skim multiplied by the adjuster, which is currently 74-cent cwt.

2. Justification for NAJ Proposal 3

In its submission NMPF observed that the FMMO Class I price formula assigns fixed factors to calculate the value of protein and other solids in Class I skim milk. But as protein and other solids have increased in producer milk, the regulated price of Class I milk has not kept pace. The Class I price, like other classes, should capture the increased value of protein and other solids for many of the same reasons why there should no longer be MCP orders and non-MCP orders. When non-MCP milk is based on fixed factors that become outdated as quickly as they are updated milk suppliers have incentives to transport their milk to buyers facing a higher valuation for their higher component milk. This contributes to market disorder by causing transportation costs that are otherwise unnecessary and it makes it more difficult for handlers subject to non-MCP pricing to attract milk.

Additionally, having skim value in milk used for Class I purposes be reflective of actual skim components in producer milk is better for producers, but importantly, it can reduce or eliminate the misalignment between skim value in Class I relative to skim value in manufacturing classes in most FMMOs, which in turn can lessen the likelihood that manufacturing milk will be depooled. This is a positive externality for producers in general and Class I suppliers and fluid milk plants more specifically. This is because Class I plants and their suppliers must share their Class I value when it is higher but they do not get the opportunity to share in the higher manufacturing values when negative PPDs and depooling occur.

Another reason why MCP should be applied to Class I in all FMMOs is because reflecting actual components in respective markets will ensure that fluid milk handlers are neither underpaying or overpaying for what they are receiving in terms of components. An order-by-order analysis of skim components revealed significant differences between orders. **Attachment A, Skim Solids All Orders, All Classes**, shows that in 2022 the weighted average skim protein content of all orders was 3.39% which is significantly higher than the current skim

protein factor of 3.10%. However, individual orders varied from 3.20% (Florida) to 3.55% (Pacific Northwest). Other solids and nonfat solids averaged 6.02% and 9.41%, respectively, and both are higher than the current factors of 5.90% and 9.00%. Individual orders showed much smaller variations in other solids content, 5.98% to 6.04%. The differences in nonfat solids mirrored protein with a low of 9.18% and a high of 9.59%.

Attachment F, Class I Price Comparison All Orders 2019-2022, shows Class I skim component content value for each order. Skim value was calculated using four methods: 1) current skim factors of 3.1% protein, 5.9% other solids, and 9.0% nonfat solids, 2) NMPF's proposed three-year average updated component factors, 3) NAJ's proposed annual updated component factors, and 4) actual skim components. When the variation in actual skim content is combined with 2022 average advance skim prices of \$2.7098/lb. protein, \$0.4320/lb. other solids, and \$1.5135/lb. nonfat solids, the Class I skim price ranges from \$13.32/cwt. to \$13.95/cwt. Using three-year average component factors (2018 to 2020) of 3.30% protein, 6.00% other solids, and 9.30% nonfat solids Class I skim values would be \$13.54/cwt. for all orders.

Why are these differences significant? First, using single, national factors does not reflect actual skim components. Class I skim that is below the national factors will be paid for skim components that are not being delivered. Conversely, Class I skim that is above the national average will not be paid the full value of the components thereby lowering Class I revenues and lowering PPDs than if Class I values were based on actual component content.

Furthermore, when Class I skim has higher component content than the national factors, the Class I skim value remains out of alignment with manufacturing skim value. If updated national factors are enacted the misalignment will be less than exists with the current factors but will remain a contributing factor to depooling manufacturing milk.

Attachment G, Protein In All MCP Orders, shows the increasing average protein content in each multiple component pricing (MCP) order since 2000. Looking forward producers can be expected to continue to increase milk's component content. The proposed regular updates of single, national component factors will lead to increasing Class I skim prices for all orders including the four non-MCP orders which have no incentive to increase their skim components

because there is no direct compensation to producers for skim components. The NMPF petition for the hearing includes the following paragraph:

Three of the non-MCP orders, Appalachian, Florida, and Southeast do not have an adequate supply of producer milk within their marketing areas to meet consumer fluid milk demand. Supplemental milk must be transported into these markets to meet this demand. The supplemental milk is typically supplied from federal orders using MCP. The higher relative value of skim milk in MCP versus non-MCP markets increases the cost of supplemental milk for the non-MCP, deficit fluid milk markets. In addition, it decreases the incentive to move milk from reserve supply areas to deficit fluid milk markets. Both make it more costly and difficult to ensure consumers have access to an adequate supply of fluid milk.

Pricing Class I skim on its actual components will eliminate the reluctance to move high component milk from the MCP orders to the deficit fluid markets.

3. §900.22 Proposal Submission Requirements for NAJ Proposal 3

(a) The proposal would establish Class I pricing using MCP across FMMOs. Making this amendment will improve the relationship between Class I values and manufacturing values, reduce the incidence of negative PPDs and depooling and reduce the disincentive to supply Class I handlers versus manufacturing in MCP markets.

(b) The proposal would bring the relationship between manufacturing values and Class I values into closer alignment such that incentives to depool, the likelihood of negative PPDs and incentives to incur transportation costs to seek out MCP outlets over non-MCP outlets. The proposal will also reduce the incidence of fluid milk handlers over paying in some markets and underpaying in other markets for what they receive and it is expected to generate additional producer revenue in aggregate.

(c) Class I handlers are currently obligated to account for their milk based on skim volume and fat. The proposal would make it so that Class I handlers account for the milk they receive based on the skim components and fat actually received.

(d) The proposal is expected to make it less difficult for fluid milk plants to attract available milk that has higher component levels. The proposal is expected to reduce the incentive for manufactured milk to depool and reduce the incidence of negative PPDs by enhancing pool values and realigning the relationship between fluid milk and manufacturing

milk values. The proposal is expected to increase costs to processors (and consumers) in some markets and decrease the cost to processors (and consumers) in other markets as the data indicates skim components vary across FMMOs. Fluid milk handlers may be impacted by modest differences between the advanced Class I price and the value for which they must account based on actual components received, but it is believed that this difference is highly predictable and should be a minimal issue. It is not dissimilar from how they manage variations in butterfat.

(e) Small business producers would be expected to benefit from this proposal as it is expected to bring about more orderly marketing conditions and generate additional revenue as skim components continue to increase. Producers serving the Class I market would be more likely to share in the value of manufacturing values to the extent this proposal is an additional step toward reducing negative PPDs and depooling. See part (d) regarding Class I handlers.

(f) See parts d-e, hereinabove, for potential costs to producers, handlers and consumers. Additionally, there should be a minimal impact on the Dairy Programs as most handlers are engaged in testing components and there will be an adjustment to reports required of industry.

(g) A pre-hearing information session would be helpful to explain the proposal, especially as it relates to the timing of the updates.

Thank you for your consideration of these proposals and I look forward to the opportunity to explain them on Friday June 16.

Respectfully submitted,

A handwritten signature in black ink that reads "Erick Metzger". The signature is written in a cursive, slightly slanted style.

Erick Metzger

cc: Erin Taylor (Erin.Taylor@ams.usda.gov)

2019								
Order	Total Skim	% of Total Skim	Protein		Other Solids		Nonfat Solids	
			Total Protein	Skim Protein %	Total OS	Skim OS %	Nonfat Solids	Skim NFS %
1 - Northeast	25,710,259,025	17%	828,677,951	3.22%	1,539,488,016	5.99%	2,368,165,967	9.21%
5 - Appalachian	5,124,012,870	3%	164,649,761	3.21%	307,094,185	5.99%	471,743,946	9.21%
6 - Florida	2,417,995,467	2%	76,043,262	3.14%	143,369,309	5.93%	219,412,571	9.07%
7 - Southeast	4,716,174,582	3%	153,987,235	3.27%	282,034,283	5.98%	436,021,518	9.25%
30 - Upper Midwest	31,040,312,312	21%	1,011,439,750	3.26%	1,863,404,348	6.00%	2,874,844,098	9.26%
32 - Central	14,661,775,112	10%	486,005,158	3.31%	882,174,732	6.02%	1,368,179,890	9.33%
33 - Midwest	18,211,012,314	12%	594,637,524	3.27%	1,091,821,157	6.00%	1,686,458,681	9.26%
51 - California	23,335,470,100	16%	778,296,885	3.34%	1,396,491,962	5.98%	2,174,788,847	9.32%
124 - Pacific Northwest	8,149,679,145	5%	278,128,743	3.41%	489,395,474	6.01%	767,524,217	9.42%
126 - Southwest	12,385,030,957	8%	418,128,608	3.38%	744,375,858	6.01%	1,162,504,468	9.39%
131 - Arizona	4,659,260,702	3%	158,946,946	3.41%	278,775,867	5.98%	437,481,362	9.39%
Totals/weighted averages	150,410,982,586	100%	4,948,941,822	3.29%	9,018,425,191	6.00%	13,967,125,565	9.29%
2020								
Order	Total Skim	% of Total Skim	Protein		Other Solids		Nonfat Solids	
			Total Protein	Skim Protein %	Total OS	Skim OS %	Nonfat Solids	Skim NFS %
1 - Northeast	25,771,208,851	19%	834,913,544	3.24%	1,548,156,083	6.01%	2,383,069,627	9.25%
5 - Appalachian	5,116,560,342	4%	164,820,859	3.22%	307,354,940	6.01%	472,175,799	9.23%
6 - Florida	2,416,102,527	2%	75,872,240	3.14%	143,509,806	5.94%	219,382,046	9.08%
7 - Southeast	4,519,820,861	3%	148,455,947	3.28%	270,958,703	5.99%	419,414,650	9.28%
30 - Upper Midwest	19,485,737,238	15%	638,967,333	3.28%	1,170,041,658	6.00%	1,809,008,991	9.28%
32 - Central	12,791,166,939	10%	426,484,424	3.33%	770,780,493	6.03%	1,197,264,917	9.36%
33 - Midwest	17,283,681,773	13%	568,207,682	3.29%	1,038,963,875	6.01%	1,607,171,557	9.30%
51 - California	22,113,809,457	17%	734,081,803	3.32%	1,323,355,054	5.98%	2,057,436,857	9.30%
124 - Pacific Northwest	7,369,780,170	6%	249,385,351	3.38%	443,130,358	6.01%	692,515,709	9.40%
126 - Southwest	11,215,365,605	8%	383,644,992	3.42%	675,989,786	6.03%	1,059,634,778	9.45%
131 - Arizona	4,328,535,029	3%	146,174,675	3.38%	259,440,886	5.99%	405,609,139	9.37%
Totals/weighted averages	132,411,768,792	100%	4,371,008,850	3.30%	7,951,681,641	6.01%	12,322,684,070	9.31%

2021								
Order	Total Skim	% of Total Skim	Protein		Other Solids		Nonfat Solids	
			Total Protein	Skim Protein %	Total OS	Skim OS %	Nonfat Solids	Skim NFS %
1 - Northeast	25,965,226,529	20%	851,267,474	3.28%	1,559,851,784	6.01%	2,411,119,258	9.29%
5 - Appalachian	5,086,110,188	4%	164,432,124	3.23%	305,367,725	6.00%	469,799,849	9.24%
6 - Florida	2,354,594,141	2%	74,435,295	3.16%	140,584,075	5.97%	215,019,369	9.13%
7 - Southeast	4,403,443,629	3%	146,967,630	3.34%	263,857,492	5.99%	410,825,122	9.33%
30 - Upper Midwest	17,216,515,367	13%	568,927,487	3.30%	1,039,853,665	6.04%	1,608,781,152	9.34%
32 - Central	12,475,608,823	9%	420,999,794	3.37%	751,120,908	6.02%	1,172,120,702	9.40%
33 - Midwest	17,873,540,174	14%	593,215,209	3.32%	1,074,369,109	6.01%	1,667,584,318	9.33%
51 - California	22,869,916,613	17%	771,979,315	3.38%	1,368,503,746	5.98%	2,140,483,061	9.36%
124 - Pacific Northwest	7,083,207,761	5%	244,095,394	3.45%	426,558,043	6.02%	670,653,437	9.47%
126 - Southwest	11,778,481,350	9%	408,964,124	3.47%	709,710,994	6.03%	1,118,675,118	9.50%
131 - Arizona	4,292,850,159	3%	147,567,732	3.44%	257,587,255	6.00%	405,147,205	9.44%
Totals/weighted averages	131,399,494,734	100%	4,392,851,578	3.34%	7,897,364,796	6.01%	12,290,208,592	9.35%
2022								
Order	Total Skim	% of Total Skim	Protein		Other Solids		Nonfat Solids	
			Total Protein	Skim Protein %	Total OS	Skim OS %	Nonfat Solids	Skim NFS %
1 - Northeast	25,798,380,443	18%	848,446,947	3.29%	1,552,663,562	6.02%	2,401,110,509	9.31%
5 - Appalachian	5,208,464,202	4%	170,529,075	3.27%	313,412,038	6.02%	483,941,113	9.29%
6 - Florida	2,391,137,964	2%	76,487,399	3.20%	143,093,751	5.98%	219,581,150	9.18%
7 - Southeast	3,757,853,213	3%	126,782,624	3.37%	225,868,573	6.01%	352,651,197	9.38%
30 - Upper Midwest	30,524,460,373	21%	1,025,212,776	3.36%	1,841,974,093	6.03%	2,867,186,869	9.39%
32 - Central	15,003,543,422	10%	510,553,582	3.40%	905,505,656	6.04%	1,416,059,238	9.44%
33 - Mideast	16,121,463,338	11%	540,653,888	3.35%	970,183,213	6.02%	1,510,837,101	9.37%
51 - California	21,530,324,872	15%	744,583,931	3.46%	1,290,922,520	6.00%	2,035,506,451	9.45%
124 - Pacific Northwest	7,256,835,203	5%	257,680,484	3.55%	438,079,153	6.04%	695,759,637	9.59%
126 - Southwest	13,147,039,052	9%	457,256,028	3.48%	794,056,504	6.04%	1,251,312,532	9.52%
131 - Arizona	4,722,532,463	3%	167,118,333	3.54%	283,661,646	6.01%	450,784,152	9.55%
Totals/weighted averages	145,462,034,545	100%	4,925,305,068	3.39%	8,759,420,709	6.02%	13,684,729,950	9.41%

**SAMPLE MPC LANGUAGE FOR CLASSES V, III, IV
NAJ PROPOSAL 2**

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.

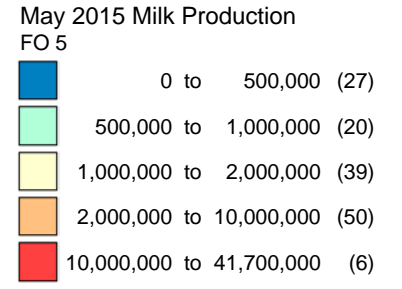
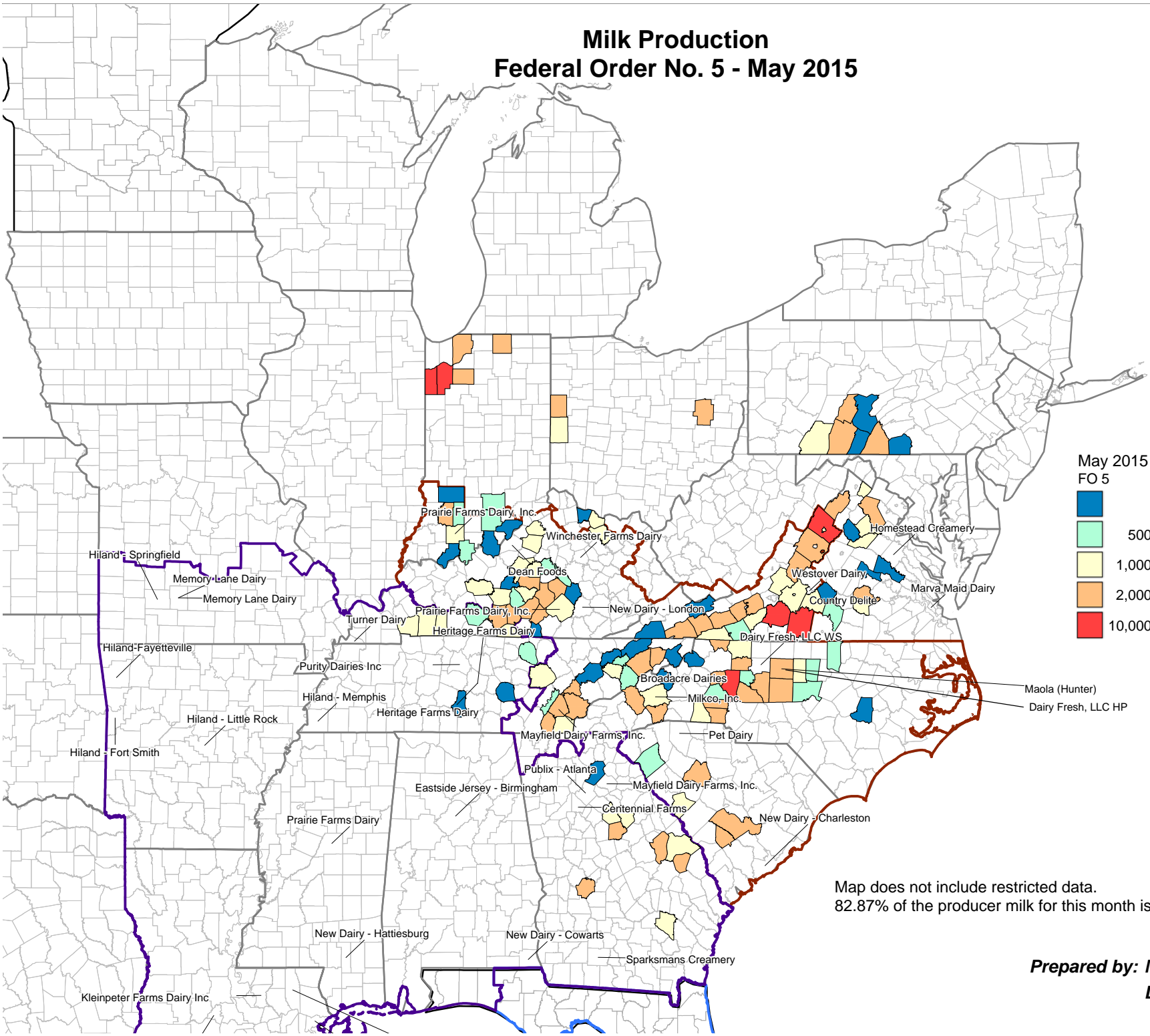
(c) If a handler has not received full payment from the market administrator pursuant to § 1007.72 by the payment date specified in paragraph (a) or (b) of this section, the handler may reduce payments pursuant to paragraphs (a) and (b) of this section, but by not more than the amount of the underpayment. 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.

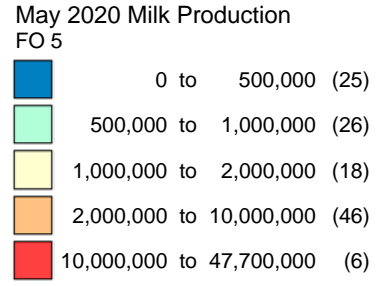
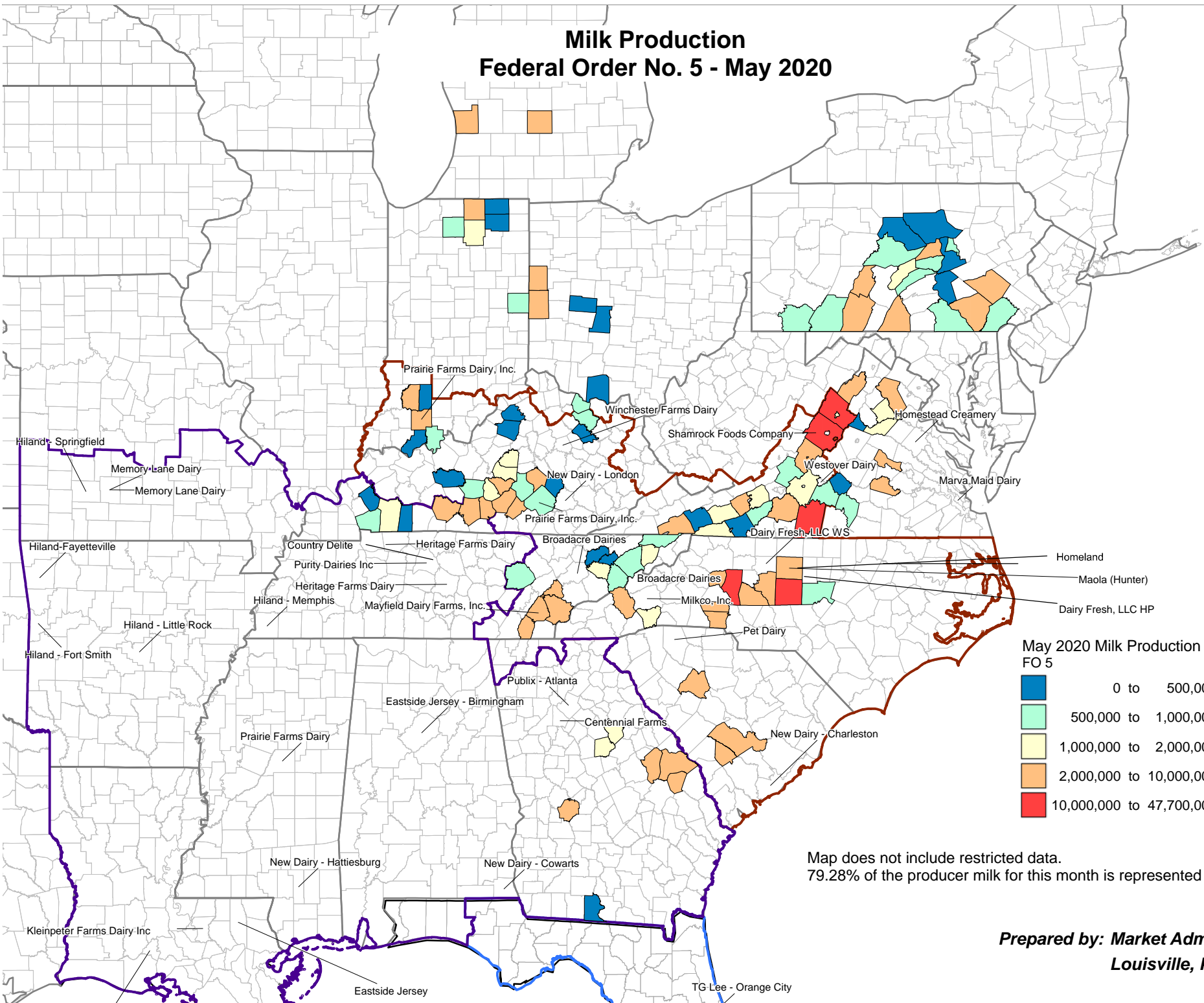
Milk Production Federal Order No. 5 - May 2015



Map does not include restricted data.
82.87% of the producer milk for this month is represented on the map

**Prepared by: Market Administrator
Louisville, KY**

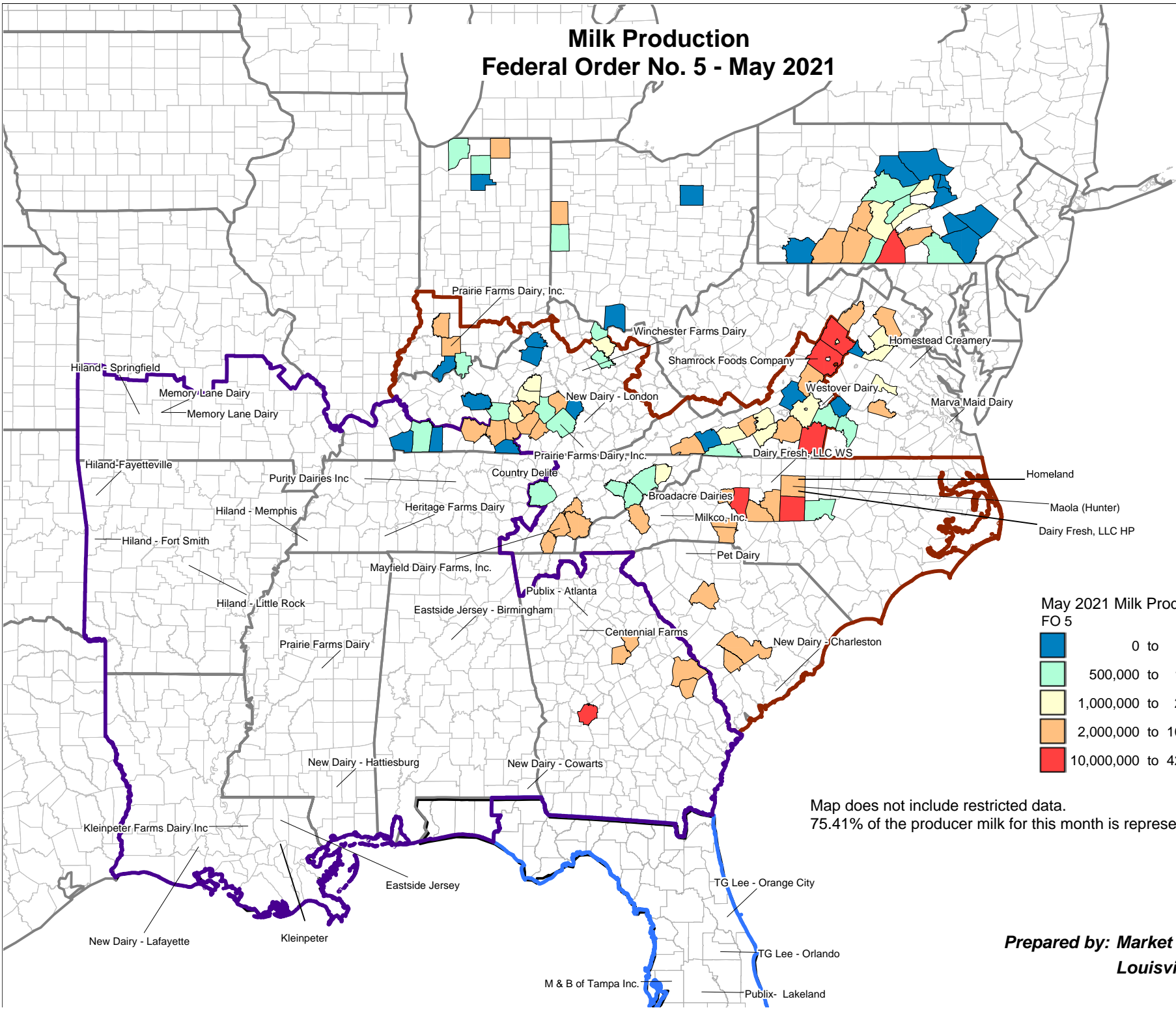
Milk Production Federal Order No. 5 - May 2020



Map does not include restricted data.
79.28% of the producer milk for this month is represented on the map

**Prepared by: Market Administrator
Louisville, KY**

Milk Production Federal Order No. 5 - May 2021



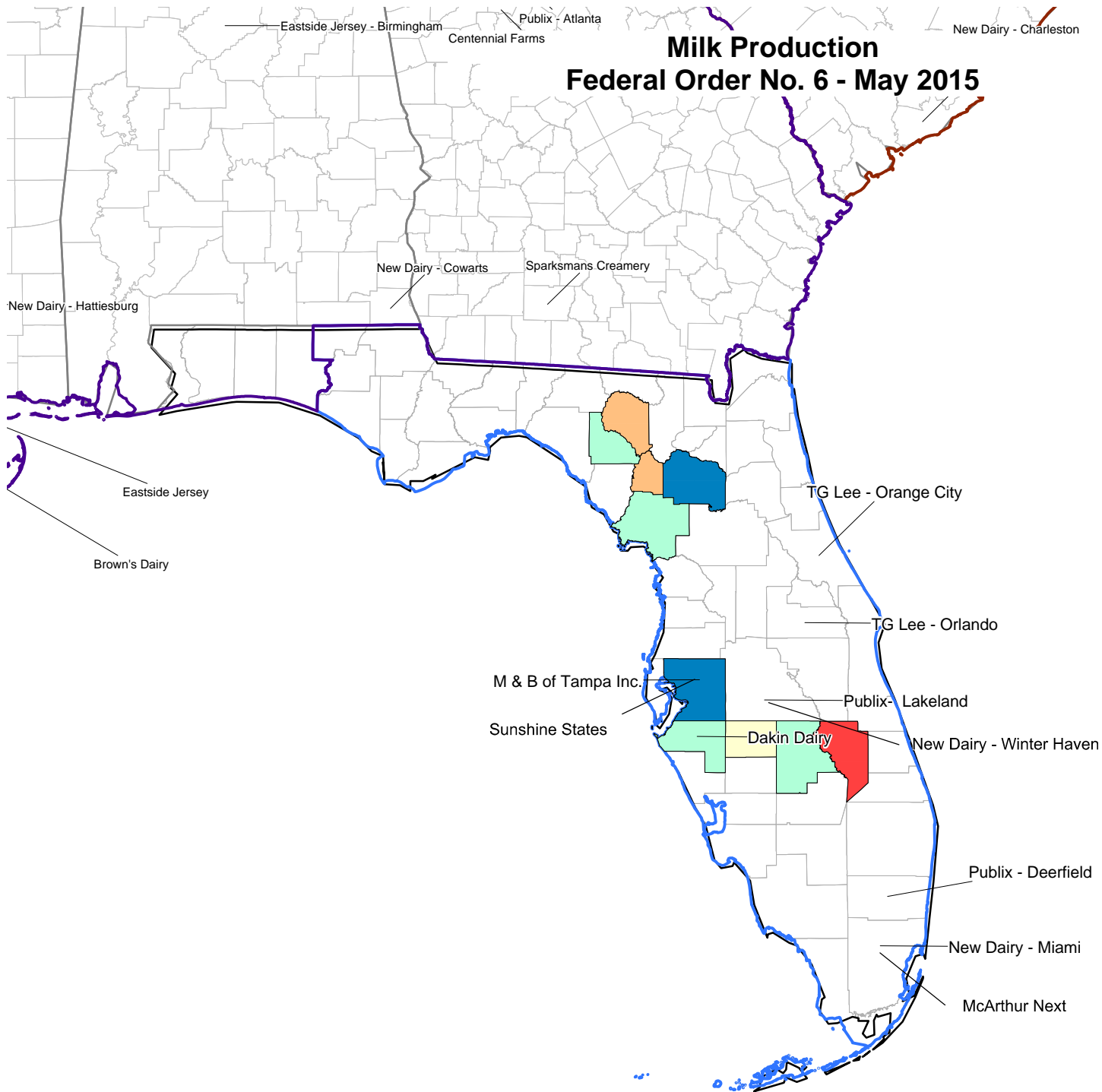
**May 2021 Milk Production
FO 5**

0 to 500,000	(23)
500,000 to 1,000,000	(22)
1,000,000 to 2,000,000	(16)
2,000,000 to 10,000,000	(41)
10,000,000 to 42,100,000	(7)

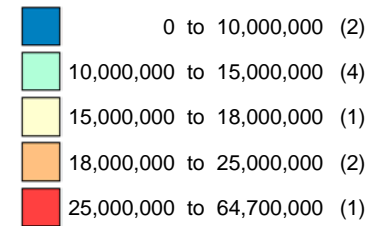
Map does not include restricted data.
75.41% of the producer milk for this month is represented on the map.

**Prepared by: Market Administrator
Louisville, KY**

Milk Production Federal Order No. 6 - May 2015

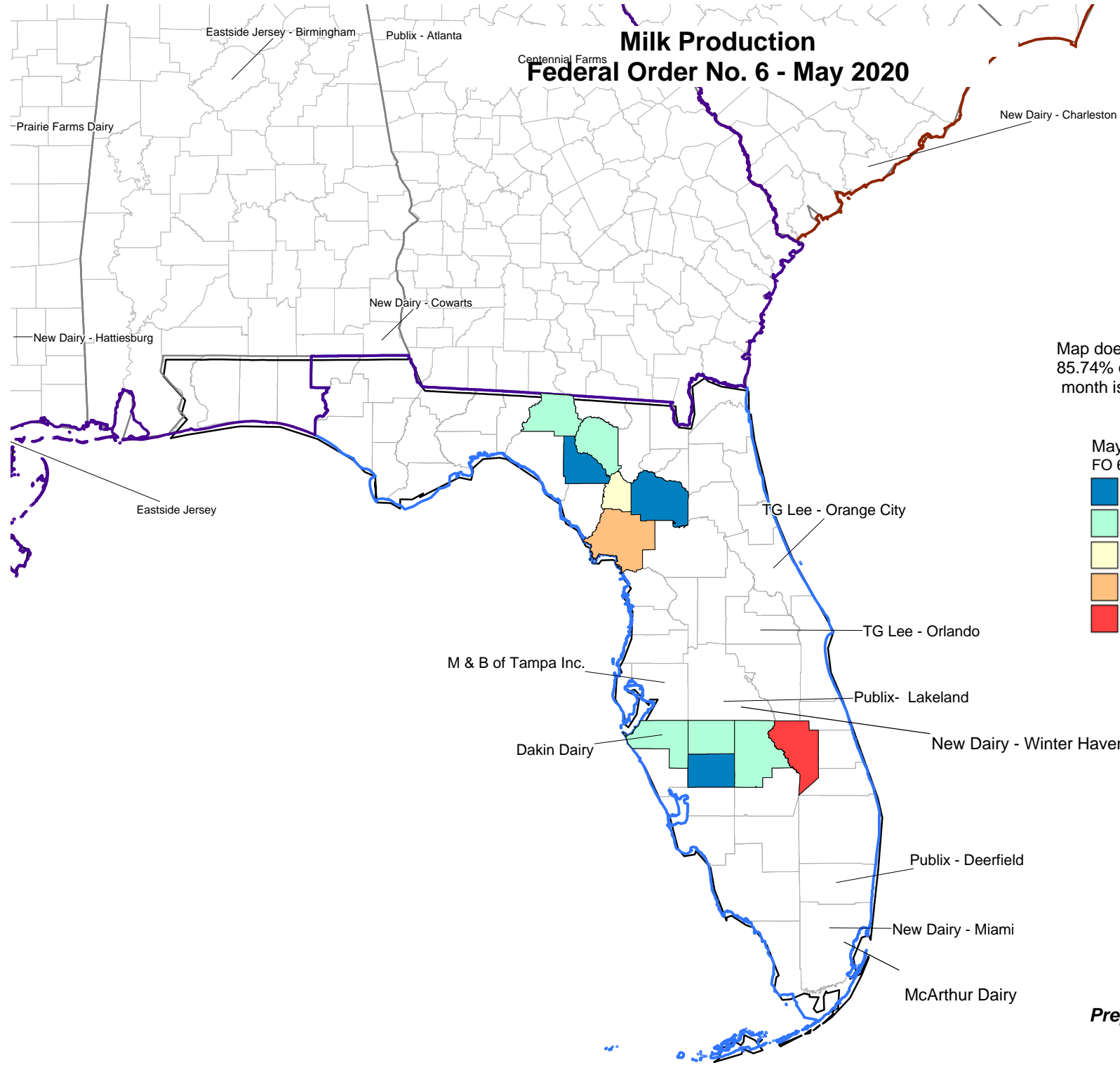


May 2015 Milk Production
FO 6

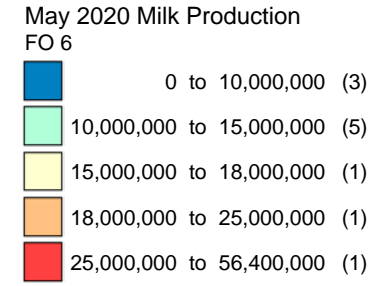


Map does not include restricted data.
80.67% of the producer milk for this month is represented on the map

Milk Production Federal Order No. 6 - May 2020

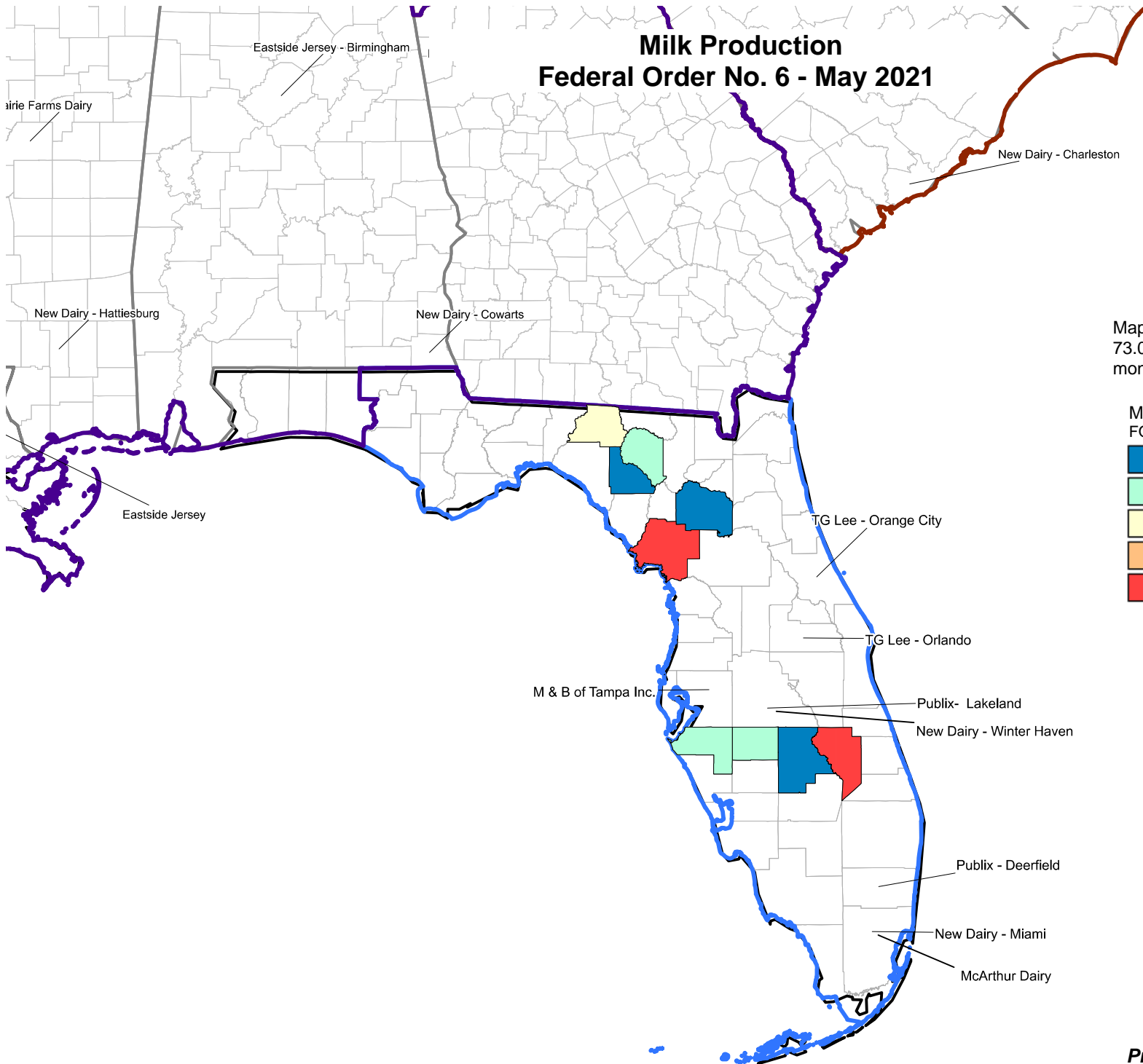


Map does not include restricted data.
85.74% of the producer milk for this month is represented on the map.

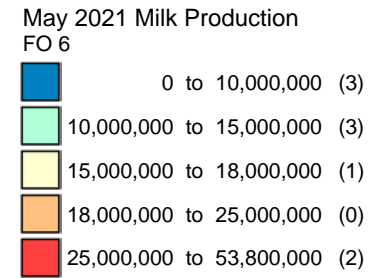


**Prepared by: Market Administrator
Louisville, KY**

Milk Production Federal Order No. 6 - May 2021

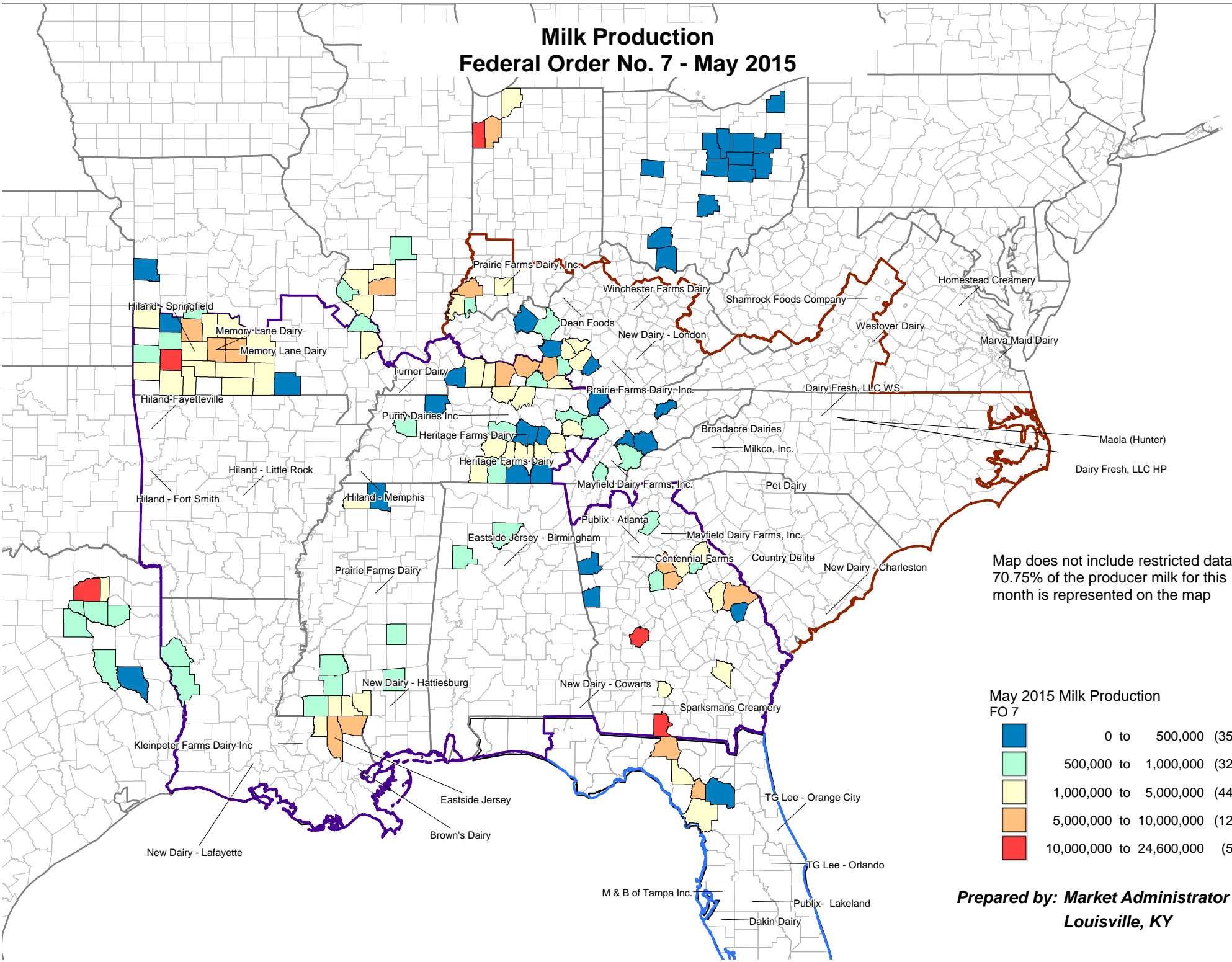


Map does not include restricted data.
73.07% of the producer milk for this month is represented on the map.



**Prepared by: Market Administrator
Louisville, KY**

Milk Production Federal Order No. 7 - May 2015



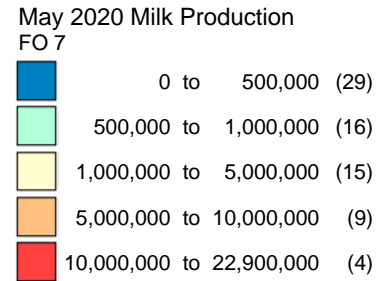
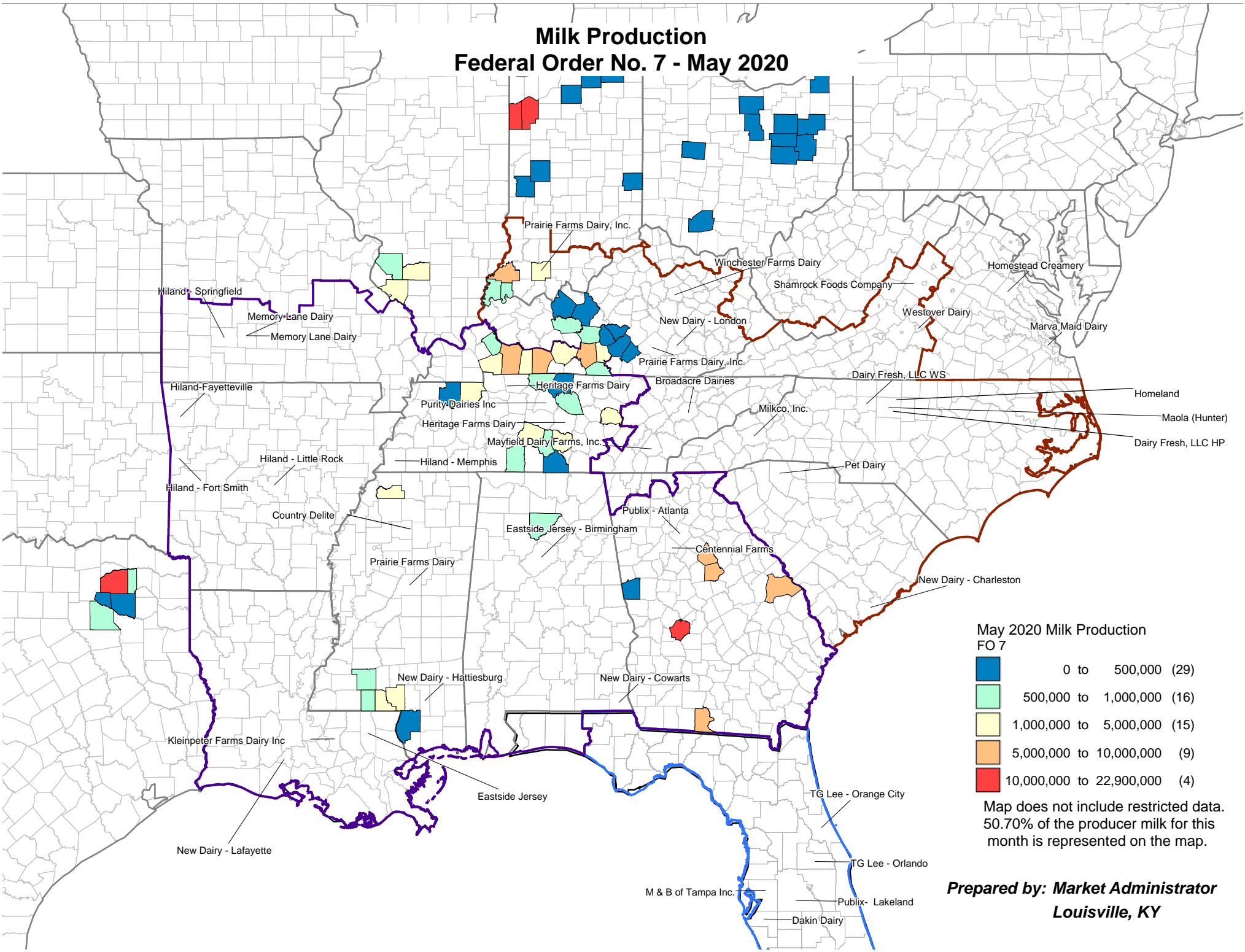
Map does not include restricted data.
70.75% of the producer milk for this month is represented on the map

May 2015 Milk Production
FO 7

	0 to 500,000 (35)
	500,000 to 1,000,000 (32)
	1,000,000 to 5,000,000 (44)
	5,000,000 to 10,000,000 (12)
	10,000,000 to 24,600,000 (5)

**Prepared by: Market Administrator
Louisville, KY**

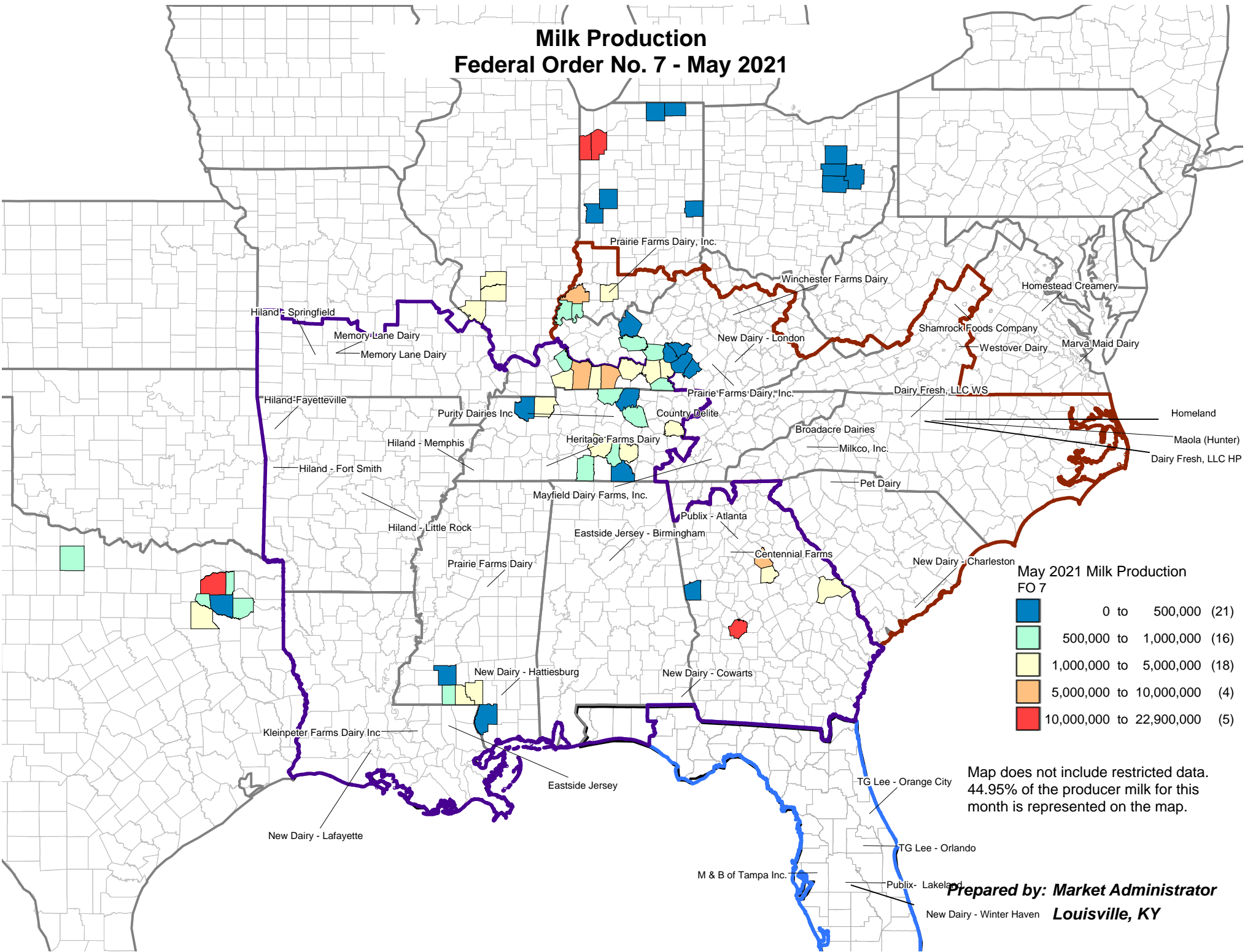
Milk Production Federal Order No. 7 - May 2020



Map does not include restricted data.
50.70% of the producer milk for this month is represented on the map.

**Prepared by: Market Administrator
Louisville, KY**

Milk Production Federal Order No. 7 - May 2021



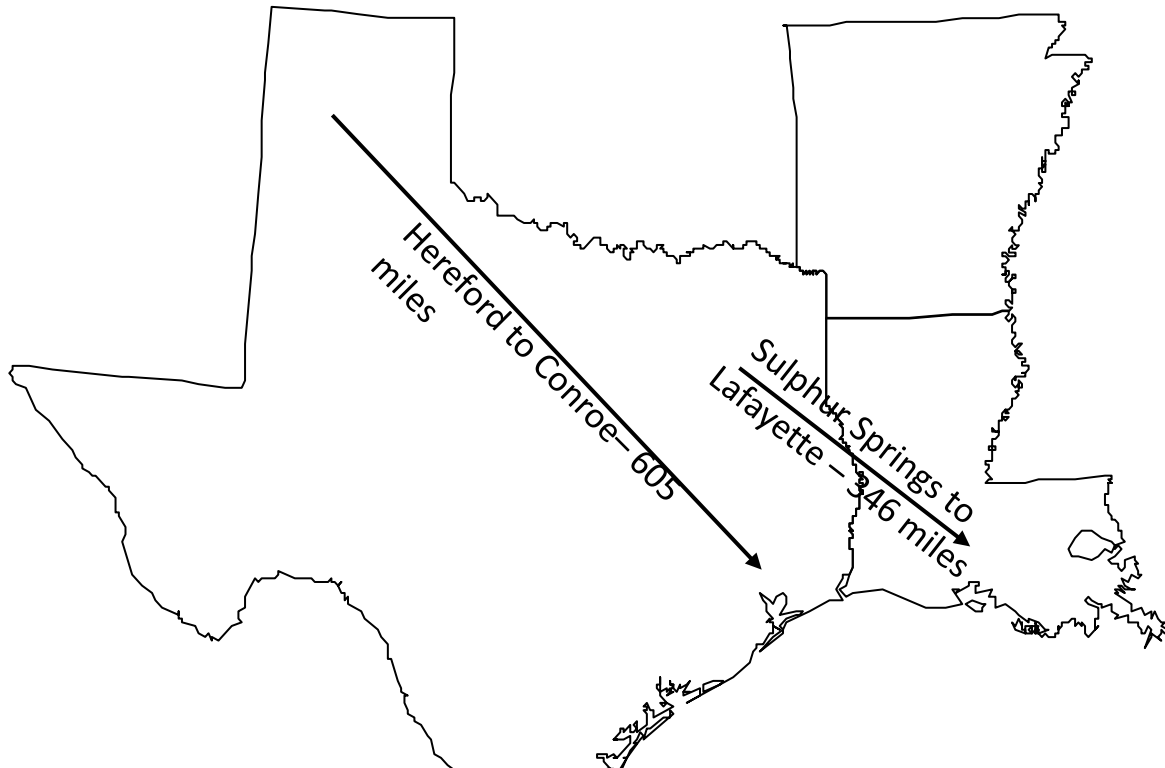
**May 2021 Milk Production
FO 7**

Blue	0 to 500,000	(21)
Light Green	500,000 to 1,000,000	(16)
Yellow	1,000,000 to 5,000,000	(18)
Orange	5,000,000 to 10,000,000	(4)
Red	10,000,000 to 22,900,000	(5)

Map does not include restricted data.
44.95% of the producer milk for this month is represented on the map.

**Prepared by: Market Administrator
Louisville, KY**

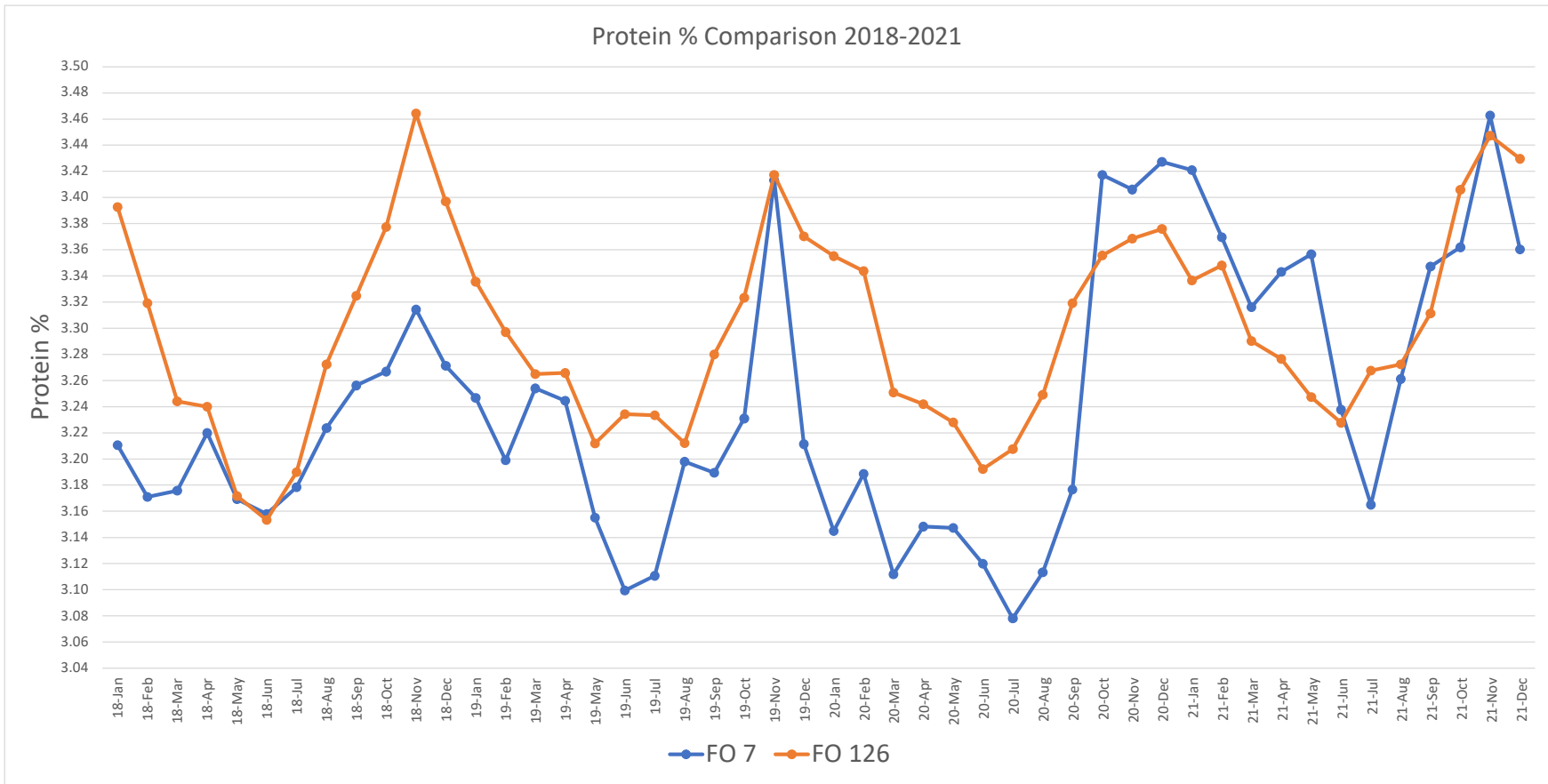
Option 1 – Total Miles = 951 (Fewer Miles Option)



Miles From:	To:	Lafayette	Conroe	
Sulphur Springs		346	274	
Hereford		808	605	
Presumed Component Tests:				
	<u>Butterfat</u>	<u>Protein</u>	<u>O-Solids</u>	<u>Skim Milk</u>
Sulphur Springs	4.700%	3.650%	5.750%	95.300%
Hereford	3.800%	3.250%	5.750%	96.200%
<u>Load of Milk =</u>	50,000	pounds		
<u>Cost to Haul Milk =</u>	\$4.095	per loaded mile		

Option 1., Sulphur Springs, TX to Lafayette, LA & Hereford, TX to Conroe, TX (Fewer Miles Option)						
Leg A:	F.O. 7 -Uniform skim milk value:	\$ 13.3950	x	47,650	=	\$ 6,383
	F.O. 7 -Uniform butterfat value:	\$ 1.8801	x	2,350	=	\$ 4,418
	Milk Value					\$ 10,801
				<u>miles</u>		
	hauling cost			346	x	\$ 4.00 = \$ (1,384)
						NET RETURN AT LAFAYETTE \$ 9,417
Leg B:	F.O. 126 - butterfat value:	\$ 1.8904	x	1,900	=	\$ 3,592
	F.O. 126 - protein value:	\$ 2.7630	x	1,625	=	\$ 4,490
	F.O. 126 - other solids value:	\$ 0.3866	x	2,875	=	\$ 1,111
	F.O. 126 - PPD value at Conroe:	\$ 0.7000	x	50,000	=	\$ 350
	Milk Value					\$ 9,543
				<u>miles</u>		
	hauling cost			605	x	\$ 4.00 = \$ (2,420)
						NET RETURN AT CONROE \$ 7,123
						OPTION 1. GRAND TOTAL NET RETURN F.O.B. THE TWO PLANTS \$ 16,540

(All prices are 2021 simple averages)



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. Producer Milk data for milk produced in FO 126 area 5N and pooled on FO 5 is restricted.

Class I Skim Value												
Year 2019												
Order	Class I Pounds				Class I %			Skim Price				
	Skim	Protein	OS	NFS	Protein	OS	NFS	Current	NMPF 3-yr.	Annual	Actual Comp	
1 - Northeast	8,096,876,560	260,108,104	484,096,518	744,204,622	3.21%	5.98%	9.19%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.61	
5 - Appalachian	3,665,501,936	117,859,071	219,686,267	337,545,339	3.22%	5.99%	9.21%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.62	
6 - Florida	2,044,708,135	64,300,361	121,238,964	185,539,325	3.14%	5.93%	9.07%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.48	
7 - Southeast	3,360,564,226	109,860,018	200,968,034	310,828,052	3.27%	5.98%	9.25%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.69	
30 - Upper Midwest	2,672,987,549	87,197,438	160,252,095	247,422,721	3.26%	6.00%	9.26%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.69	
32 - Central	4,508,589,080	149,441,229	271,052,319	419,921,668	3.31%	6.01%	9.31%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.77	
33 - Mideast	6,423,576,489	209,982,951	385,212,144	595,226,005	3.27%	6.00%	9.27%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.70	
51 - California	5,199,474,726	171,991,341	310,708,392	482,699,733	3.31%	5.98%	9.28%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.75	
124 - Pacific Northwest	1,692,158,896	56,949,576	101,746,542	158,696,118	3.37%	6.01%	9.38%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.85	
126 - Southwest	4,054,170,009	136,385,698	243,464,187	379,849,866	3.36%	6.01%	9.37%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.85	
131 - Arizona	1,213,704,522	41,402,027	72,603,908	113,945,806	3.41%	5.98%	9.39%	\$ 8.40	\$ 8.66	\$ 8.69	\$ 8.90	
National Average All Classes (2019)					3.29%	6.00%	9.29%					
Annual Update (2017)					3.27%	5.98%	9.25%					
NMPF Proposal (2015-2017 avg)					3.25%	5.98%	9.22%					
Advance component values					\$ 2.1326	\$ 0.1982	\$ 0.8379					
Year 2020												
Order	Class I Pounds				Class I %			Skim Price				
	Skim	Protein	OS	NFS	Protein	OS	NFS	Current	NMPF 3-yr.	Annual	Actual Comp	
1 - Northeast	8,020,338,506	258,982,109	481,353,824	740,335,933	3.23%	6.00%	9.23%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.49	
5 - Appalachian	3,841,780,642	123,697,031	230,762,872	354,459,904	3.22%	6.01%	9.23%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.47	
6 - Florida	2,013,437,003	63,233,035	119,591,578	182,824,613	3.14%	5.94%	9.08%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.25	
7 - Southeast	3,166,655,763	104,019,125	189,841,223	293,860,347	3.28%	6.00%	9.28%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.62	
30 - Upper Midwest	2,597,880,369	85,121,701	156,037,307	240,865,077	3.28%	6.01%	9.27%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.60	
32 - Central	4,585,539,206	152,695,507	276,259,239	427,971,093	3.33%	6.02%	9.33%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.73	
33 - Mideast	6,619,673,529	217,608,123	397,950,742	615,572,769	3.29%	6.01%	9.30%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.63	
51 - California	4,994,536,521	165,678,866	298,743,868	464,422,734	3.32%	5.98%	9.30%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.69	
124 - Pacific Northwest	1,663,925,724	56,259,334	100,176,167	156,435,501	3.38%	6.02%	9.40%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.86	
126 - Southwest	4,060,304,166	136,923,454	244,677,423	381,600,888	3.37%	6.03%	9.40%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.84	
131 - Arizona	1,218,542,115	41,138,095	73,020,098	114,155,937	3.38%	5.99%	9.37%	\$ 11.13	\$ 11.52	\$ 11.60	\$ 11.83	
National Average All Classes (2020)					3.30%	6.01%	9.31%					
Annual Update (2018)					3.28%	5.99%	9.27%					
NMPF Proposal (2015-2017 avg)					3.25%	5.98%	9.22%					
Advance component values					\$ 3.8533	\$ 0.1592	\$ 0.8771					

Class I Skim Value												
Year 2021												
	Class I Pounds				Class I %			Skim Price				
Order	Skim	Protein	OS	NFS	Protein	OS	NFS	Current	NMPF 3-yr.	Annual	Actual Comp	
1 - Northeast	7,948,852,222	259,829,102	476,814,673	736,643,775	3.27%	6.00%	9.27%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.22	
5 - Appalachian	3,662,145,190	118,466,291	219,871,427	338,337,718	3.23%	6.00%	9.24%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.16	
6 - Florida	1,963,771,091	62,083,443	117,255,932	179,339,375	3.16%	5.97%	9.13%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.00	
7 - Southeast	3,022,272,288	100,928,245	181,092,915	282,021,160	3.34%	5.99%	9.33%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.35	
30 - Upper Midwest	2,441,358,024	80,960,836	147,106,003	227,947,995	3.32%	6.03%	9.34%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.33	
32 - Central	4,313,699,427	145,146,542	259,395,878	403,789,009	3.36%	6.01%	9.36%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.41	
33 - Mideast	6,324,920,328	210,480,594	380,358,568	590,639,550	3.33%	6.01%	9.34%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.34	
51 - California	4,732,471,769	158,905,926	283,387,882	442,293,808	3.36%	5.99%	9.35%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.39	
124 - Pacific Northwest	1,574,138,302	53,956,845	94,929,492	148,886,337	3.43%	6.03%	9.46%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.55	
126 - Southwest	3,864,503,689	132,090,640	232,660,103	364,750,763	3.42%	6.02%	9.44%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.52	
131 - Arizona	1,333,321,248	45,845,339	79,998,951	125,841,813	3.44%	6.00%	9.44%	\$ 10.83	\$ 11.17	\$ 11.26	\$ 11.55	
					3.34%	6.01%	9.35%					
National Average All Classes (2021)					3.34%	6.01%	9.35%					
Annual Update (2019)					3.29%	6.00%	9.29%					
NMPF Proposal (2015-2017 avg)					3.25%	5.98%	9.22%					
Advance component values					\$ 2.7694	\$ 0.3634	\$ 1.0502					
Class I Skim Value												
Year 2022												
	Class I Pounds				Class I %			Skim Price				
Order	Skim	Protein	OS	NFS	Protein	OS	NFS	Current	NMPF 3-yr.	Annual	Actual Comp	
1 - Northeast	7,774,866,438	255,357,278	467,328,395	722,685,673	3.28%	6.01%	9.30%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.52	
5 - Appalachian	3,730,086,824	122,201,689	224,450,764	346,652,453	3.28%	6.02%	9.29%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.51	
6 - Florida	2,012,886,429	64,402,984	120,460,664	184,863,648	3.20%	5.98%	9.18%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.32	
7 - Southeast	2,765,721,656	93,328,742	166,236,214	259,564,957	3.37%	6.01%	9.39%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.71	
30 - Upper Midwest	2,149,730,957	71,824,700	129,441,697	201,348,290	3.34%	6.02%	9.37%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.66	
32 - Central	4,266,784,360	144,286,077	256,807,675	401,093,752	3.38%	6.02%	9.40%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.74	
33 - Mideast	6,076,231,191	204,487,806	365,587,869	569,961,467	3.37%	6.02%	9.38%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.70	
51 - California	4,617,237,027	155,797,634	276,317,238	432,114,872	3.37%	5.98%	9.36%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.69	
124 - Pacific Northwest	1,586,287,911	55,089,373	95,788,108	150,877,481	3.47%	6.04%	9.51%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.95	
126 - Southwest	3,773,723,884	129,968,991	227,705,461	357,674,417	3.44%	6.03%	9.48%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 13.88	
131 - Arizona	1,301,886,308	46,092,709	78,189,727	124,283,653	3.54%	6.01%	9.55%	\$ 13.03	\$ 13.54	\$ 13.55	\$ 14.06	
National Average All Classes (2022)					3.39%	6.02%	9.41%					
Annual (2020)					3.30%	6.01%	9.31%					
NMPF Proposal (2018-2020)					3.30%	6.00%	9.30%					
Advance component values					\$ 2.7098	\$ 0.4320	\$ 1.5135					

Average Protein Test in MCP Orders

