



PennState Law

Center for Agricultural
and Shale Law

PENNSYLVANIA DEPARTMENT OF AGRICULTURE  AGRICULTURAL BUSINESS DEVELOPMENT CENTER

Understanding Agricultural Law Webinar Series

Understanding Agricultural Law

Educational Series



Understanding the Basics of Milk Pricing



August 25, 2023

Presented by Brook Duer





Understanding Agricultural Law

**A Legal Educational Series for General Practice Attorneys and
Business Advisors Representing Agricultural and Rural Clients**

This webinar series is specifically tailored to create subject matter literacy and competence on fundamental issues of agricultural law for attorneys, advisors, and service providers to agricultural producers and agri-businesses.





Understanding Agricultural Law Series:

Past Topics:

- Agricultural Labor Laws
- Leasing Farmland for Energy Development
- Local Land Use Regulation of Agriculture
- Statutory Protections for Ag Operations
- Agricultural Cooperatives
- Livestock Market Regulation
- Crop Insurance
- Federal & State Conservation Programs
- Licensing & Regulation of Direct Agricultural Product Sales
- Agricultural Finance
- PA's "Clean & Green" Tax Assessment Program
- Animal Confinement Laws
- Conservation Easements
- Landowner Immunity Statutes
- The Farm Credit System
- USDA Commodity Programs



Understanding Agricultural Law Webinar Series

Upcoming Topics:

Friday, September 22, 2023, noon–1:00 ET

*Understanding the Basics of **Pesticides**—Pesticide Recertification Credits Available* *(Register Now!)*

Friday, October 27, 2023, noon–1:00 ET

*Understanding the Basics of **Federal & State Seed Laws*** *(Register Now!)*

Friday, November 17, 2023, noon–1:00 ET

*Understanding the Basics of **The Fair Labor Standards Act (FLSA)*** *(Register Now!)*

Friday, December 15, 2023, noon–1:00 ET

*Understanding the Basics of the **Perishable Agricultural Commodities Act (PACA)*** *(Register Now!)*



Housekeeping

- This webinar is being recorded.
- Please Use the Q&A feature for questions.
- Please fill out survey at end.
- **CLE credits:**
 - Link to CLE form will be posted in the chat
 - Please fill out form ASAP
 - Listen for code word, enter code word in form

Understanding the Basics of **Milk Pricing**

*“There’s more headaches in a pint of milk
than in a pint of whiskey.”*

- Federal Milk Marketing Orders (FMMO)
- Pennsylvania Milk Marketing Board (PMMB)



PLEASE SUBMIT QUESTIONS!

Brook Duer

Staff Attorney

Center for Agricultural and Shale Law

Penn State Law

329 Innovation Boulevard, Suite 118

University Park, PA 16802

(814) 863-3396

dhd5103@psu.edu



- 18 years in private practice in Lancaster County
- 12 years at the Pennsylvania Department of Agriculture (8 years as Chief Counsel)
- Penn State Ag Law Center since 2019.



Agricultural Law Virtual Resource Rooms

Agricultural Law Virtual Resource Rooms provide a comprehensive resource with select topics for stakeholders who are interested in learning more about a specific area of agricultural law. Each of the Virtual Resource Rooms listed below contain a compilation of statutes, regulations, case law, and related publications relevant to the chosen topic. To suggest a new topic for our Agricultural Law Virtual Resource Rooms, feel free to [Contact Us](#).



[Bioengineered Disclosure](#)



[Dairy and Dairy Products Law](#)



[Food Safety Modernization Act](#)



HOME > VIRTUAL RESOURCE ROOMS > DAIRY AND DAIRY PRODUCTS LAW

DAIRY AND DAIRY PRODUCTS LAW



VIRTUAL RESOURCE ROOM NAVIGATION

CENTER RESOURCES

PRICE REGULATION – FEDERAL

PRICE REGULATION – STATE

RISK MANAGEMENT AND INCOME
PROTECTION

DAIRY PROMOTION PROGRAMS

DAIRY ANIMAL HEALTH AND WELFARE

DAIRY PRODUCTION AND PRODUCTS
REGULATION



DOMESTIC DAIRY POLICY AND OTHER
LEGAL ISSUES

INTERNATIONAL MARKETS AND DAIRY
TRADE

DAIRY JURISPRUDENCE

LAW REVIEWS ARTICLES AND ACADEMIC
PUBLICATIONS

INDUSTRY RESOURCES AND DATA

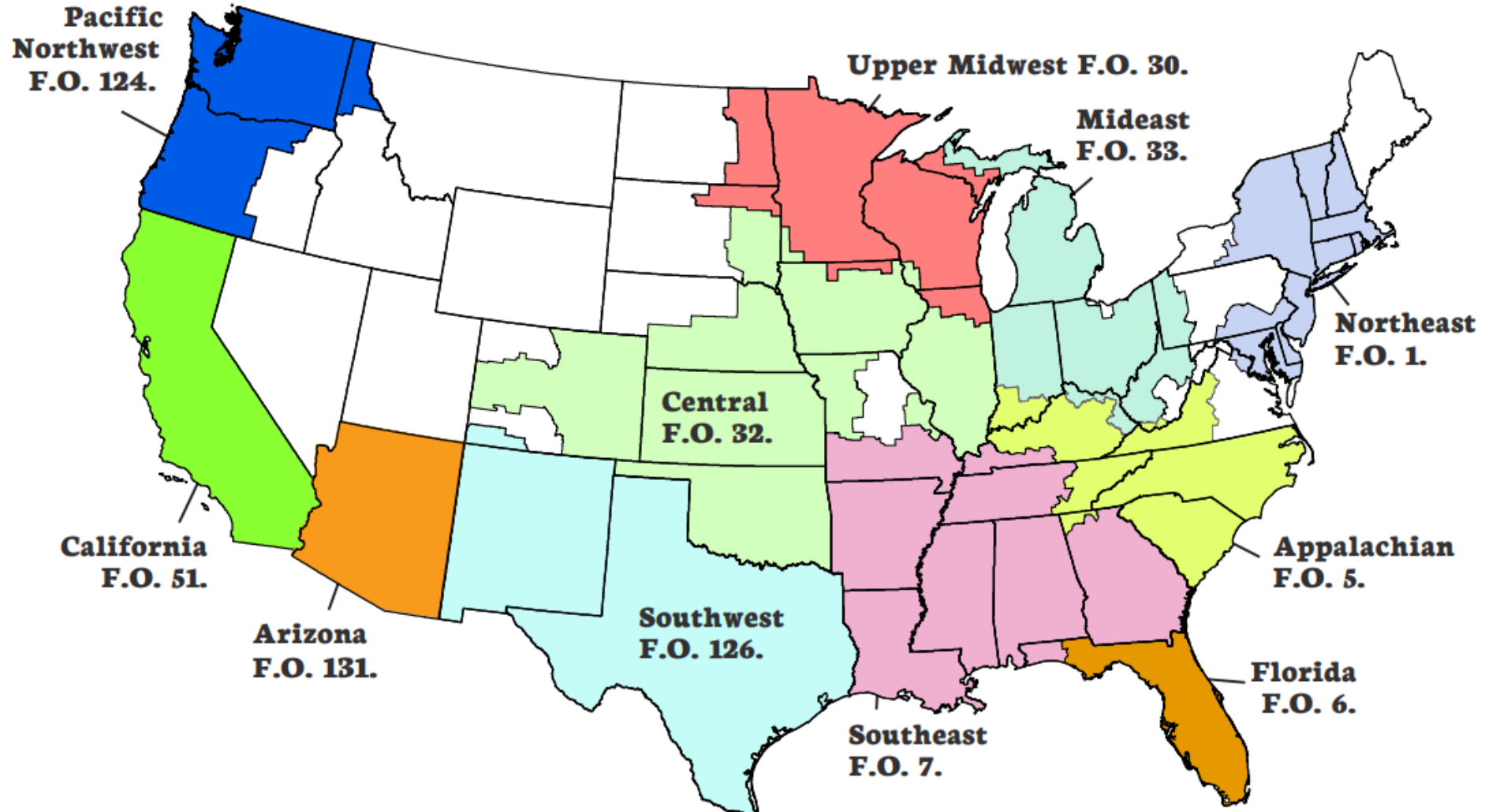


FEDERAL MILK PRICING

**through operation of
Federal Milk Marketing Orders / Agreements**



11 Federal Milk Marketing Order Areas





AGRICULTURAL MARKETING AGREEMENT ACT OF 1937,¹

**REENACTING, AMENDING, AND SUPPLEMENTING THE AGRICULTURAL
ADJUSTMENT ACT, AS AMENDED**

(7 U.S.C. 601, 602, 608a–608e, 610, 612, 614, 624, 627, 671–674)

AN ACT To reenact and amend provisions of the Agricultural Adjustment Act,
as amended, relating to marketing agreements and orders.

*Be it enacted by the Senate and House of Representatives of the United States of
America in Congress assembled,* That the following provisions of the Agricultural
Adjustment Act, as amended, not having been intended for the control of the production of
agricultural commodities, and having been intended to be effective irrespective of the validity
of any other provision of that Act are expressly affirmed and validated, and are reenacted
without change except as provided in section 2:

(a) Section 1 (relating to the declaration of emergency);

DECLARATION

[It is hereby declared that the disruption of the orderly exchange of commodities in
interstate commerce impairs the purchasing power of farmers and destroys the value of
agricultural assets which support the national credit structure and that these conditions affect
transactions in agricultural commodities with a national public interest, and burden and
obstruct the normal channels of interstate commerce. (7 U.S.C. 601.)]²

(b) Section 2 (relating to declaration of policy);

**Best and most
current
enabling text:**

7 U.S. Code

608c - Orders



Marketing Orders re: “milk and its products” shall contain:

- “**Classifying milk** in accordance with the form in which or the purpose for which it is used, and **fixing, or providing a method for fixing, minimum prices** for each such use classification which **all handlers shall pay, and the time when payments shall be made**, for milk purchased from producers or associations of producers.”
- “Such prices shall be **uniform as to all handlers, subject only to adjustments for** (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.”

Title 7 Agriculture

Subtitle B Regulations of the Department of Agriculture

27 – 5099

[Chapter X Agricultural Marketing Service \(Marketing Agreements and Orders; Milk\), Department of Agriculture](#) 1000– 1199

Part 1000	General Provisions of Federal Milk Marketing Orders	1000.1 – 1000.93
Part 1001	Milk in the Northeast Marketing Area	1001.1 – 1001.86
Part 1005	Milk in the Appalachian Marketing Area	1005.1 – 1005.86
Part 1006	Milk in the Florida Marketing Area	1006.1 – 1006.86
Part 1007	Milk in the Southeast Marketing Area	1007.1 – 1007.86
Part 1030	Milk in the Upper Midwest Marketing Area	1030.1 – 1030.86
Part 1032	Milk in the Central Marketing Area	1032.1 – 1032.86
Part 1033	Milk in the Mideast Marketing Area	1033.1 – 1033.86
Part 1051	Milk in the California Milk Marketing Area	1051.1 – 1051.90
Part 1124	Milk in the Pacific Northwest Marketing Area	1124.1 – 1124.86
Part 1126	Milk in the Southwest Marketing Area	1126.1 – 1126.86
Part 1131	Milk in the Arizona Marketing Area	1131.1 – 1131.86]
Part 1145	Dairy Forward Pricing Program	1145.1 – 1145.3
Part 1146	Milk Donation Reimbursement Program	1146.1 – 1146.210
Part 1147	Dairy Donation Program	1147.1 – 1147.212
Part 1150	Dairy Promotion Program	1150.101 – 1150.278
Part 1160	Fluid Milk Promotion Program	1160.101 – 1160.609
Part 1170	Dairy Product Mandatory Reporting	1170.1 – 1170.17



How to Create a Marketing Order

[HOME](#) > [RULES & REGULATIONS](#) > [MARKETING ORDERS & AGREEMENTS](#) > [HOW TO CREATE A MARKETING ORDER](#)

[Home](#)

[Market News](#)

[Rules & Regulations](#)

[BE Disclosure](#)

[Cotton and Tobacco](#)

Because marketing orders are used to solve shared problems across an industry, the first step to creating a one is for the industry to hold a meeting where they formally identify mutual marketing problems and determine whether a marketing order could help them solve these problems. During these discussions, USDA staff may help the industry identify marketing order authorities relevant to the industry's problems. After that point, these steps are followed:

- 1.If there is general industry support for a program, a preliminary proposal is prepared by a steering committee of key industry people. Growers and shippers are included in discussions on the proposal.**
- 2.A list of industry growers and handlers is developed by proponents. Next a request for a hearing on the proposal is sent to the Administrator of AMS. It should indicate the degree of industry support, the problems the program would address, and suggest a possible hearing site and approximate date.**
- 3.AMS reviews the request and supporting documents, as well as any alternative proposals from interested parties. During this period, the staff of USDA is free to discuss the merits of elements included in any proposal with the industry.**
- 4.A Notice of Public Hearing is then issued, and it is published at least 15 days before the hearing. USDA staff can comment only on procedural questions after this point.**
- 5.A USDA Administrative Law Judge presides at the public hearing and a verbatim record is compiled of the testimony of opponents, proponents and others, including USDA personnel. Because proponents bear the burden of proof, they must present evidence to support the need for the program, and every provision in it. Briefs arguing for particular decisions may be filed with USDA after the hearing.**

- 6. A recommended decision is issued by USDA based on hearing evidence. This is USDA's formal recommendation on the proposal. Persons are allowed to file exceptions to it for a set time period.**
- 7. After consideration of all exceptions to the recommended decision, USDA prepares a final decision. If it is favorable, a grower referendum is held on the proposal.**
- 8. While producers are voting, copies of a companion marketing agreement are sent to handlers for their signature. Through their signatures on the agreement, handlers indicate their intention to abide by the terms of the program.**
- 9. If at least two thirds of the growers voting by number or by volume approve the proposal, the Secretary of Agriculture issues the marketing order.**

This process may take up to one and one-half years (18 months) to complete, depending on the complexity of the proposal, the size of the industry, and the availability of resources within the industry and USDA to devote to the proposed program.



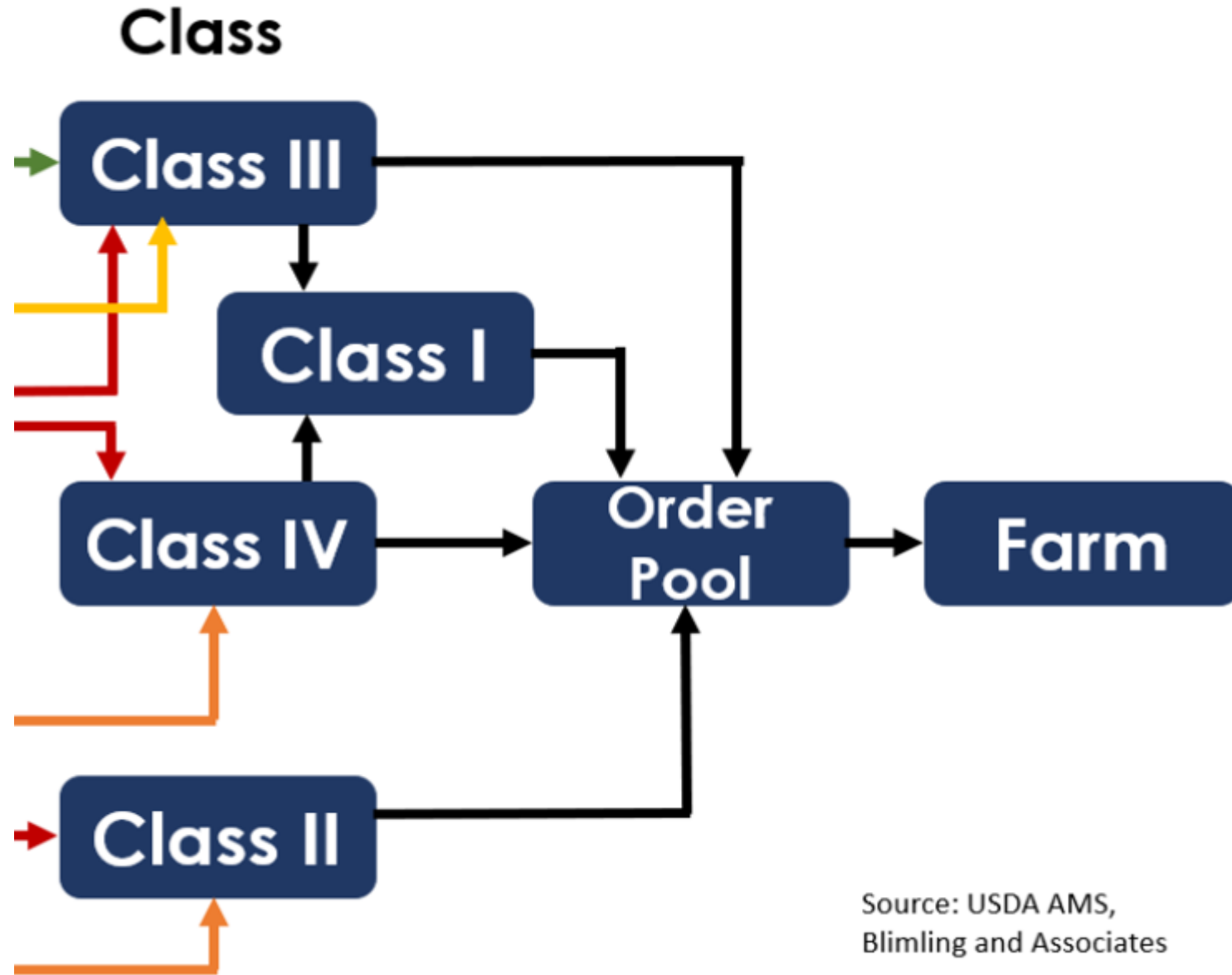
Laying a little foundation

- “Eyes can glaze over” on this topic.
- Simple FMMO Objective: Spread the benefit of higher Class I fluid milk revenues across more producers.
- **Method: Market-wide mandatory “pool” of Class I revenues (and optional “eligible” Class II, III, IV revenue) through a monthly system of setting advance minimum pay prices and then “truing it up” after the market dictates the final result for the month. Participating producers (milk included in the pool) get a uniform price.**



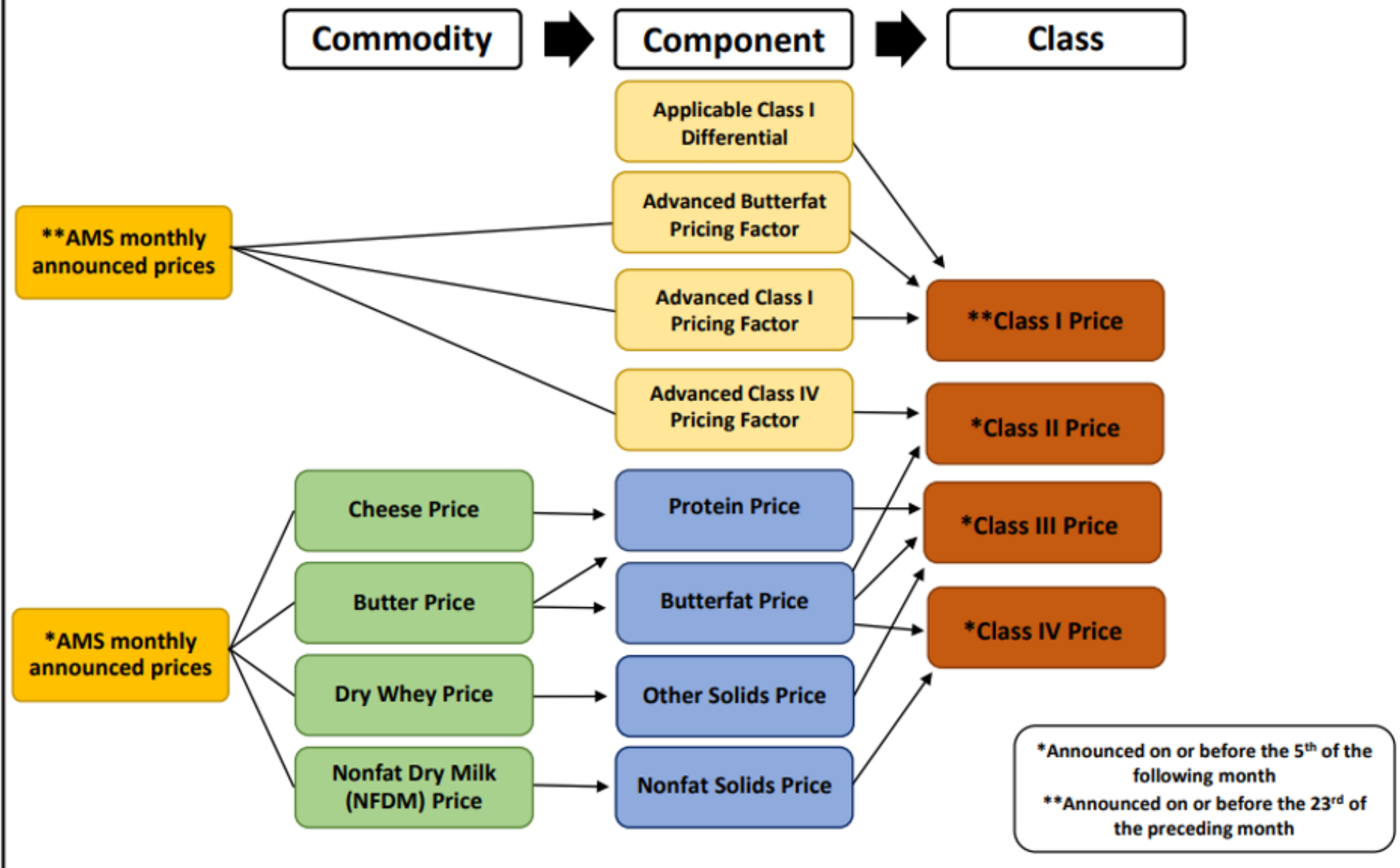
“Utilization” Classes

- **Class I – FLUID MILK**
- **Class II – SOFT PRODUCTS**
- **Class III – CHEESE (HARD)**
- **Class IV – BUTTER & POWDERED PRODUCTS**



Source: USDA AMS,
Blimling and Associates

“Three C’s” of Federal Milk Marketing Order Pricing



Farmer A sells milk to bottling plant.



Bottling plant buys milk for **\$18/CWT** the Class I milk price.

\$17/CWT pays Farmer A for milk.

\$1/CWT goes into pool.



\$1/CWT from pool goes to cheese plant.

Cheese plant buys milk for **\$16/CWT** the Class III milk price.

\$17/CWT pays Farmer B for milk.



Farmer B sells milk to cheese plant.

The “tru-ing up” process



United States
Department of Agriculture

Agricultural Marketing Service
Dairy Program

FEDERAL MILK ORDER NO. 1
Northeast Marketing Area

89 South Street - Suite 301 Boston, MA 02111-2671

Mailing Address:

P.O. Box 51478

Boston, MA 02205-1478

Tel.: (617) 737-7199 -- Fax: (617) 737-8002

email: northeastorder@fedmilk1.com

website: www.fmmone.com

Albany :

302A Washington Avenue Ext.

Albany, NY 12203-7303

Tel.: (518) 452-4410

Fax: (518) 464-6468

Alexandria :

P. O. Box 25828

Alexandria, VA 22313-5828

Tel.: (703) 549-7000

Fax: (703) 549-7003

JULY 2023
POOL PRICE ANNOUNCEMENT

Producer Milk	Percent	Pounds	Minimum Class Price
Class I	26.5	615,557,981	\$20.57
Class II	26.7	621,247,076	19.12
Class III	30.5	707,968,243	13.77
Class IV	16.3	378,308,243	18.26
Total Producer Milk	100.0	2,323,081,543	

Computation of Uniform Price (per cwt @ Suffolk County, MA)

Producer Price Differential	\$4.46
Class III Price (@ 3.5% Butterfat)	<u>\$13.77</u>
Statistical Uniform Price (@ 3.5% Butterfat)	\$18.23
Statistical Uniform Price (@ Average Pool Component Tests)	\$19.56

Payment Schedule**Payment Dates for the Month of:****JULY 2023**

Payment TO the Producer Settlement Fund due on:	August 16, 2023
Payments FROM the Producer Settlement Fund made on:	August 17, 2023
Final payments TO a Cooperative Association must be made on:	August 17, 2023
Final payments to Producers must be RECEIVED by:	August 18, 2023

Producer Price Differential and Statistical Uniform Price, by Location

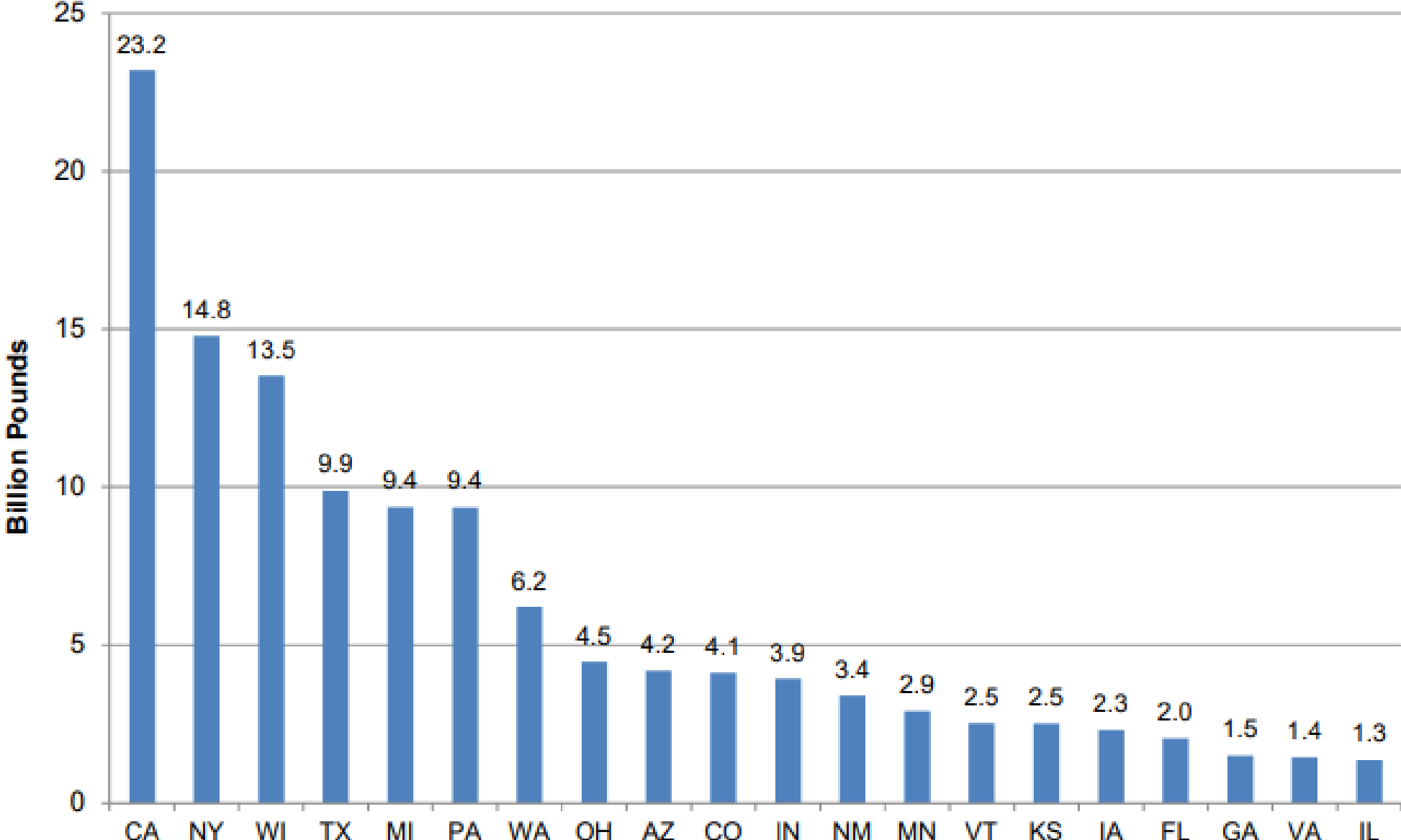
Selected Locations	Differential *	Adjustment	Producer Price Differential	Statistical # Uniform Price
	dollars per hundredweight			
Boston, MA	3.25	0.00	4.46	18.23
Newport News/Portsmouth, VA	3.20	(0.05)	4.41	18.18
New York, NY	3.15	(0.10)	4.36	18.13
Long Valley, NJ	3.10	(0.15)	4.31	18.08
Philadelphia, PA	3.05	(0.20)	4.26	18.03
Agawam, MA/Baltimore, MD	3.00	(0.25)	4.21	17.98
Frederick, MD/New Holland, PA	2.90	(0.35)	4.11	17.88
Mt. Holly Springs, PA	2.80	(0.45)	4.01	17.78
Albany/Binghamton, NY	2.70	(0.55)	3.91	17.68
Middlebury, VT	2.60	(0.65)	3.81	17.58
Syracuse, NY	2.50	(0.75)	3.71	17.48
St. Albans/Swanton, VT	2.40	(0.85)	3.61	17.38
Watertown/Rochester, NY	2.30	(0.95)	3.51	17.28
Buffalo, NY	2.20	(1.05)	3.41	17.18
Jamestown, NY	2.10	(1.15)	3.31	17.08

Final Class Prices by Order, July 2023

Federal Milk Order Minimum Class Prices for Milk of 3.5 Percent Butterfat ^{1 2}						
Federal Milk Order Marketing Area ³	Order Number	Jul 2023				Aug 2023
		Class I	Class II	Class III	Class IV	Class I
		<i>(dollars per cwt)</i>				
Northeast (Boston)	001	20.57	19.12	13.77	18.26	19.87
Appalachian (Charlotte)	005	20.72	19.12	13.77	18.26	20.02
Florida (Tampa)	006	22.72	19.12	13.77	18.26	22.02
Southeast (Atlanta)	007	21.12	19.12	13.77	18.26	20.42
Upper Midwest (Chicago)	030	19.12	19.12	13.77	18.26	18.42
Central (Kansas City)	032	19.32	19.12	13.77	18.26	18.62
Mideast (Cleveland)	033	19.32	19.12	13.77	18.26	18.62
California (Los Angeles)	051	19.42	19.12	13.77	18.26	18.72
Pacific Northwest (Seattle)	124	19.22	19.12	13.77	18.26	18.52
Southwest (Dallas)	126	20.32	19.12	13.77	18.26	19.62
Arizona (Phoenix)	131	19.67	19.12	13.77	18.26	18.97
All Market Average		20.14	19.12	13.77	18.26	19.44

¹ To convert the Class I price per 100 pounds to the Class I price per gallon, divide by 11.63 - the approximate number of gallons in 100 pounds of milk. ² The mandatory \$0.20 per cwt processor assessment under the Fluid Milk Promotion Order is not included in the Class I prices shown on this table. ³ Names in parentheses are the major city in the principal pricing point of the markets. Marketing Area footnotes on page 2.

Top 20 States Contributing to the Federal Order Pool, 2021



Receipts of Producer Milk by Handlers Regulated under Federal Milk Orders, 2021

State and Region	Producer Milk Receipts		
	Total ¹	Share of Total Milk Marketed by Producers	
		Fluid Grade	All Milk
	<i>(Million pounds)</i>	<i>(percent)</i>	<i>(percent)</i>
New York	14,795	96	96
Pennsylvania	9,368	93	93
Vermont	2,531	99	99
Maryland	833	96	96
Maine	556	98	98
Connecticut	417	97	97
New Hampshire	211	94	94
Massachusetts	179	92	92
Other States ²	133	90	90
Northeast	29,024	95	95



FMMO Reform

Over the years, there have been various FMMO reform proposals. Some common reform areas/issues:

- Role of Cooperatives
- Class Price Determination (& its foundational elements)
- Administrative Hearing and Referendum Vote vs. Statutory Amendment of the Agricultural Marketing Agreement Act. (2018 Farm Bill change cost producers >\$900M since 2020 due to unusual market conditions.)
- “All or Nothing:” To be implemented, any amendment has to be voted upon by a referendum vote of all affected producers. If the amendment is voted down, the entire FMMO is voted down.



Petitions for Federal Milk Marketing Order Reform

NMPF Petition: 3/7/23 - National Milk Producers Federation (NMPF) publicly [announce](#) Board approval to file FMMO reform petition. 5/1/23 - [Petition](#) filed.

- Returning to the “higher of” Class I mover;
- Discontinuing the use of barrel cheese in the protein component price formula;
- Extending the current 30-day reporting limit to 45 days on forward priced sales on nonfat dry milk and dry whey to capture more exports sales in the USDA product price reporting;
- Updating milk component factors for protein, other solids and nonfat solids in the Class III and Class IV skim milk price formulas;
- Developing a process to ensure make-allowances are reviewed more frequently through legislation directing USDA to conduct mandatory plant-cost studies every two years;
- Updating dairy product manufacturing allowances contained in the USDA milk price formulas; and
- Updating the Class I differential price system to reflect changes in the cost of delivering bulk milk to fluid processing plants.



Petitions for FMMO Reform (cont.)

Make Allowance Petition: 3/28/23 - the Wisconsin Cheese Makers Association and International Dairy Foods Association separately petition to amend make-allowances.

- [Petition of the Wisconsin Cheese Makers Association \(“WCMA”\)](#)
- [Petition of the International Dairy Foods Association \(“IDFA”\)](#)
- NMPF and nine other dairy and agricultural associations [oppose](#) both petitions, calling for a balanced, measured approach that modernizes the program by addressing other “outdated” pricing factors.



USDA AMS Commences FMMO Reform Hearing Process

On June 1, 2023, the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) published an [Action Plan on Proposed Amendments to the Pricing Provisions of All Federal Milk Marketing Orders](#) (FMMOs). This action plan is in response to the National Milk Producers Federation's (NMPF) formal proposal, filed on May 1, 2023, which requests amendments to all FMMOs. USDA is considering initiating a rulemaking process that would involve holding a public hearing to gather evidence concerning proposed pricing provision changes that would apply to all eleven FMMOs. The [published schedule](#) includes a call for additional reform proposals by June 14, 2023. A virtual pre-hearing information session was held on June 16, 2023. Furthermore, USDA published a notice of hearing in July 2023, with start date for hearings on August 23, 2023.



Ten Petitioners / Multiple Proposals for FMMO Reform

Pursuant to direction given during the June 16, 2023, virtual pre-hearing info session, on June 20, 2023, ten dairy groups submitted [revised proposals](#) for FMMO reform:

1. [American Farm Bureau Federation](#)
2. [California Dairy Campaign \(California Farmers Union\)](#)
3. [Cedar Grove Cheese](#)
4. [Dairy Pricing Association, Inc.](#)
5. [Edge Dairy Farmer Cooperative](#)
6. **International Dairy Foods Association: [Class I Mover](#) & [Make Allowances](#)**
7. [Milk Innovation Group](#)
8. [National All-Jersey, Inc.](#)
9. [National Milk Producers Federation](#)
10. [Wisconsin Cheese Markers Association](#)

According to [USDA's FMMO Action Plan](#), a notice of the hearing was published in the Federal Register and the scheduled commencement date for hearings is August 23, 2023, in Indianapolis (Carmel), IN.

National Federal Milk Marketing Order Pricing Formula Hearing

commenced 8/23/23

(<https://www.zoomgov.com/j/1604805748>)

- [Federal Register Notice of Hearing](#)
- 22 separate [Proposals](#) under consideration.

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1000

[Doc. No. 23–J–0067; AMS–DA–23–0031]

Milk in the Northeast and Other Marketing Areas; Notice of Hearing on Proposed Amendments to Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: A national public hearing is being held to consider and take evidence on proposals to amend the pricing formulas in the 11 Federal Milk Marketing Orders (FMMOs).

DATES: The hearing will convene at 9:00 a.m. ET on Wednesday, August 23, 2023.

ADDRESSES: The hearing will be held at the 502 East Event Centre, 502 East

Carmel Drive, Carmel, Indiana 46032. Telephone (317) 843–1234.

Copies of this notice of hearing may be procured from the Market Administrator of any of the 11 marketing areas, or from the Hearing Clerk, United States Department of Agriculture, STOP 9200—Room 1031, 1400 Independence Avenue SW, Washington, DC 20250–9200.

Copies of the notice of hearing and the corresponding hearing record will be made available online on the Hearing website: <https://www.ams.usda.gov/rules-regulations/moa/dairy/hearings/national-fmmo-pricing-hearing>.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, Director, Order Formulation and Enforcement Division, USDA/AMS/Dairy Programs, Stop 0225—Room 2530, 1400 Independence Avenue SW, Washington, DC 20250–0225, (202) 720–7311, email: Erin.Taylor@usda.gov.

Persons requiring a sign language interpreter or other special accommodations should contact FMMOHearing@usda.gov a minimum of five days before the start of the hearing.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of 5 U.S.C. 556 and 557 and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the 502 East Event Centre, 502 East Carmel Drive, Carmel,

Indiana, beginning Wednesday, August 23, 2023, at 9:00 a.m. ET, with respect to proposed amendments to the orders regulating the handling of milk in the Northeast and other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (Act), and the applicable rules of practice and procedure governing amendments to marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions related to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof to the marketing orders.

Actions under the FMMO program are subject to the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA). The RFA seeks to ensure that, within the statutory authority of a program, the regulatory and information collection requirements are tailored to the size and nature of small businesses. For the purpose of the RFA, a dairy farm is a “small business” if it has an annual gross revenue of \$3.75 million or less, and a dairy products manufacturer is a “small business” if it has no more than the number of employees listed in the chart below (13 CFR 121.201):



AFBF Market Intel - *Tracking FMMO Policy Developments*

- [Part 1](#) (4/13/23) & [Part 2](#) (6/22/23), by AFBF Economist Daniel Munch. This is a great discussion of where we are and how we got here. Part 2 spends time on proposals in AFBF’s petition that are not in NMPF proposal, or at least not identical in detail. Beware: it is highly technical but can be read to “get the gist” without command of every detail.

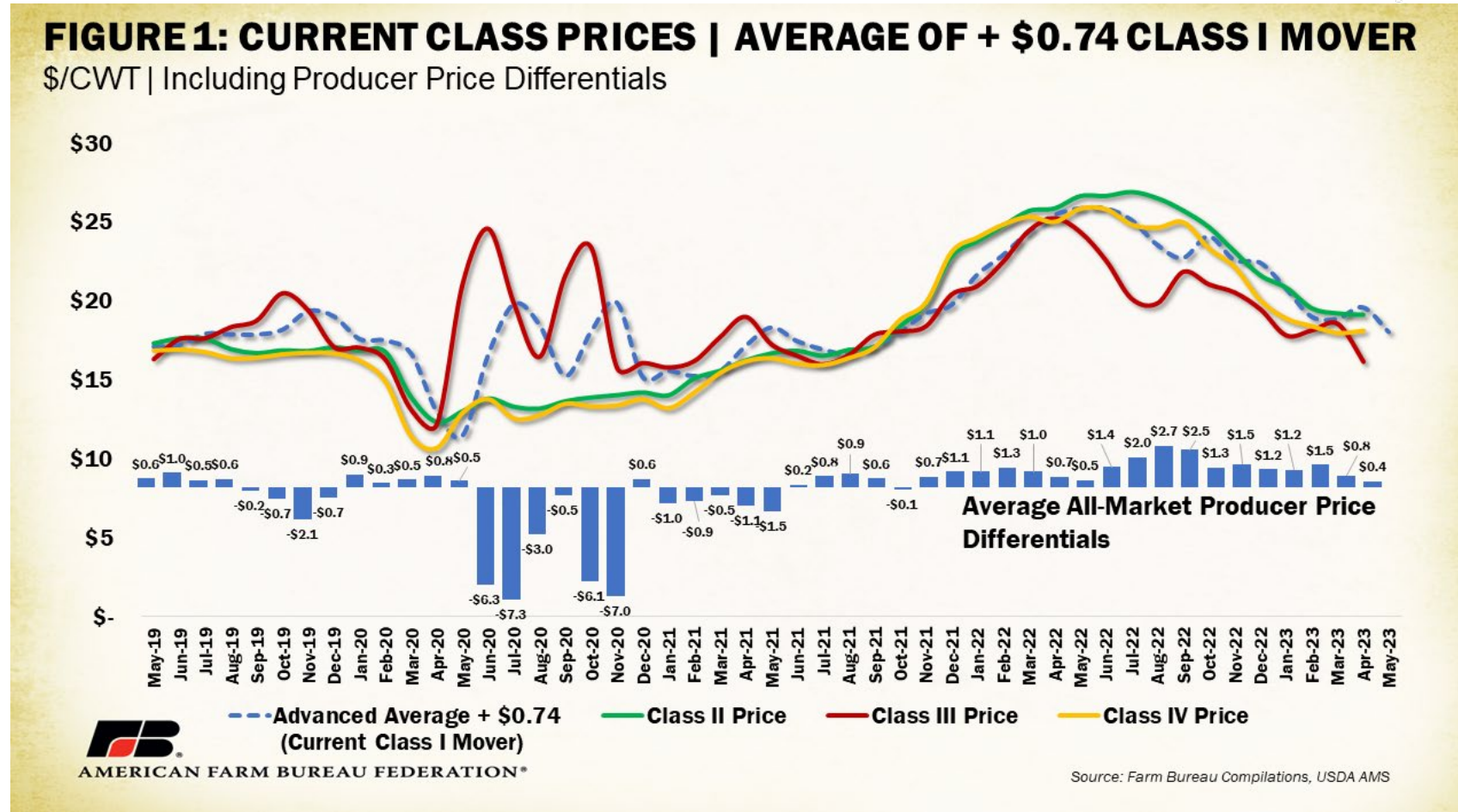
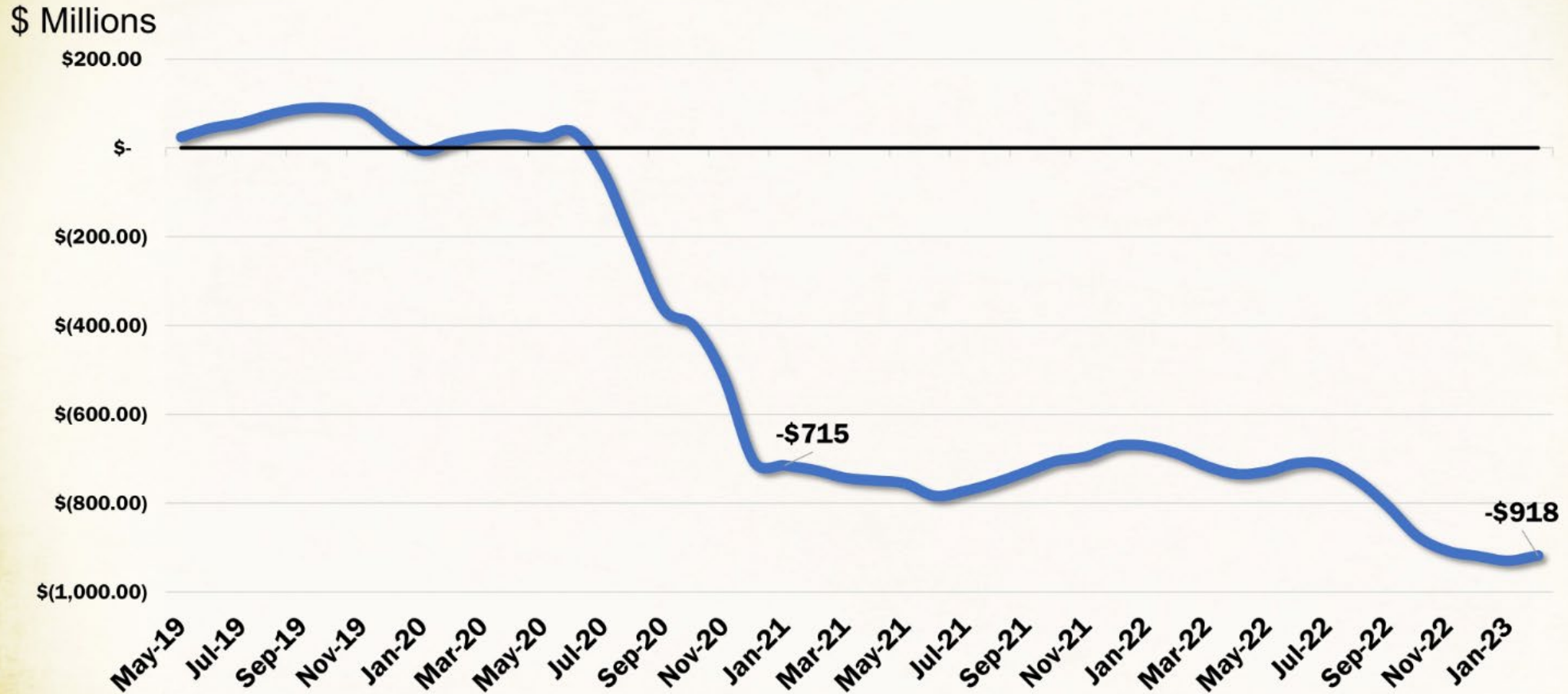


FIGURE 2: CUMULATIVE FEDERAL ORDER POOL LOSSES DUE TO CLASS I MOVER CHANGE



AMERICAN FARM BUREAU FEDERATION®

Source: Farm Bureau Compilations, USDA AMS

Pandemic Market Volatility Assistance Program (PMVAP): Round 1 - \$250M (80% of losses on production up to 5M lbs.) Round 2 - \$100M (80% of losses on production between 5M – 9M lbs.). Covers July –Dec. 2020.



PENNSYLVANIA MILK PRICING

**through operation of the
Pennsylvania Milk Marketing Board Orders**



PMMB – What does it do re: milk pricing?

- “Enhances dairy farmer revenue” / “Provides security for dairy farmers and milk dealers” / “Allows fluid milk dealers and retailers to recover average costs”
- “The Board establishes minimum **producer, wholesale, and retail prices** *[for Class I milk only]*. The minimum producer price includes a Board-mandated **over-order premium on Class I milk** produced, processed, and sold in Pennsylvania. The over-order premium is adjusted periodically based on evidence received at public hearings held by the Board. By maintaining minimum retail and wholesale prices, destructive price wars at those levels are eliminated and there is no pressure to reduce farm prices to meet competition.”
- “. . . The over-order premium directly impacts **15% - 20%** of the milk produced in Pennsylvania.” *[PA is a milk-surplus state]*
- Since 1988, approx. \$850M in additional revenue to PA producers paid for Class I utilized milk.
- Several years ago, PMMB estimated (over the last 20 years): Min. Retail Price = 40-60% to producer; 28-37% to processor; 15-20% to retailer.



Josh Shapiro - Governor
 Carol A. Hardbarger - Secretary

Commonwealth of Pennsylvania
Milk Marketing Board
 2301 North Cameron Street
 Harrisburg, PA 17110-9408

Robert N. Barley - Chairman
 James A. Van Blarcom - Member
 Kristi Kassimer Harper - Consumer Member

Phone: (717) 787-4194
 Fax: (717) 783-6492
 E-mail: RA-PMMB@pa.gov
 WEB SITE: www.mmb.pa.gov

Minimum Producer Price Data
For Milk Purchased From Producers in July 2023

AREA-ZONE	CLASS I DIFF.	CO-OP PROCUREMENT COST	OVER ORDER PREM ¹ (A999 & A1017)	PURCHASED FROM CO-OPS			PURCHASED FROM INDEPENDENTS		
				BUTTERFAT VALUE (per lb.)	SKIM VALUE (per cwt.)	CLASS I PRICE	BUTTERFAT VALUE (per lb.)	SKIM VALUE (per cwt.)	CLASS I PRICE
1-0 Southeastern Pennsylvania Milk Marketing Area	\$3.05	\$0.2416	\$1.32	\$2.8218	\$12.49	\$21.93	\$2.8194	\$12.25	\$21.69
2-0 East Central Pennsylvania Milk Marketing Area	\$2.80	\$0.2416	\$1.32	\$2.8193	\$12.24	\$21.68	\$2.8169	\$12.00	\$21.44
3-0 Northeastern Pennsylvania Milk Marketing Area	\$2.80	\$0.2416	\$1.32	\$2.8193	\$12.24	\$21.68	\$2.8169	\$12.00	\$21.44
4-0 South Central Pennsylvania Milk Marketing Area	\$2.90	\$0.2416	\$1.32	\$2.8203	\$12.34	\$21.78	\$2.8179	\$12.10	\$21.54
5-0 Western Pennsylvania Milk Marketing Area	\$2.30	\$0.2416	\$1.32	\$2.8143	\$11.74	\$21.18	\$2.8119	\$11.50	\$20.94
6-0 West Central Pennsylvania Milk Marketing Area	\$2.50	\$0.2416	\$1.32	\$2.8163	\$11.94	\$21.38	\$2.8139	\$11.70	\$21.14

1. Includes a Fuel Adjustment of \$0.32 per Hundredweight.



PA's Over Order Premium (OOP) Controversy

- For many years, the OOP has caused friction and dissatisfaction among dairy producers.
 - The small volume of milk earning the OOP.
 - The minimum wholesale and minimum retail price includes an inaccurate assumption that the OOP is being paid on 100% of the milk sold in those transactions. (a windfall to processors / retailers?)
 - PA consumers paying more for milk than surrounding states.
- Dairy industry stakeholders, some legislators and the PA Department of Agriculture have advocated for wholesale changes to create another way to provide a benefit to PA dairy producers from the retail sale of milk in PA.



Thank You! Questions?

Understanding Agricultural Law Series Upcoming Topics:

Friday, September 22, 2023, noon–1:00 ET

Understanding the Basics of Pesticides—Pesticide Recertification Credits Available *(Register Now!)*

Friday, October 27, 2023, noon–1:00 ET

Understanding the Basics of Federal & State Seed Laws *(Register Now!)*

Friday, November 17, 2023, noon–1:00 ET

Understanding the Basics of The Fair Labor Standards Act (FLSA) *(Register Now!)*

Friday, December 15, 2023, noon–1:00 ET

Understanding the Basics of the Perishable Agricultural Commodities Act (PACA) *(Register Now!)*



Pen



PennState Law



PENN STATE CENTER FOR AGRICULTURAL AND SHALE LAW

329 Innovation Blvd., Suite 118
University Park, PA 16802
Phone: 814-865-4290
Website: AgLaw.psu.edu

PROFESSIONAL STAFF

Center Director

Ross H. Pifer
rpifer@psu.edu

Staff Attorney
Brook Duer
dhd5103@psu.edu

Staff Attorney
Audry Thompson
aet17@psu.edu

Staff Attorney
Jackie Schweichler
jks251@psu.edu

Research Specialist
Chloe Marie, LL.M.
cjm445@psu.edu

CENTER MISSION AND BACKGROUND

The Center for Agricultural and Shale Law conducts research and educational programs to serve a wide variety of stakeholders including agricultural producers, landowners, mineral interest and royalty owners, business professionals, judges, attorneys, legislators, government officials, community groups, and the general public. Center programs are funded in part by the Commonwealth of Pennsylvania through the Pennsylvania Department of Agriculture. The Center for Agricultural and Shale Law is a partner of the National Agricultural Law Center (NALC) at the University of Arkansas System Division of Agriculture, which serves as the nation's leading source of agricultural and food law research and information.

This publication is available in alternative media on request. Penn State is an equal opportunity, affirmative action employer, and is committed to providing employment opportunities to all qualified applicants without regard to race, color, religion, age, sex, sexual orientation, gender identity, national origin, disability, or protected veteran status.



PennState Law



National Agricultural Library
UNITED STATES DEPARTMENT OF AGRICULTURE



pennsylvania
DEPARTMENT OF AGRICULTURE

