II. Discussion of Material Issues and Amendments to the Orders

A discussion and explanation of the material issues and determinations contained in this rule are as follows:

1. CONSOLIDATION OF MARKETING AREAS

Subtitle D, Chapter 1 of the 1996 Farm Bill, entitled "Consolidation and Reform of Federal Milk Marketing Orders," requires, among other things, that the Federal milk marketing orders be limited to not less than 10 and not more than 14. Nearly 1,300 public comments received in response to the proposed rule addressed the subject of order consolidation. Preceding the proposed rule, two preliminary reports on order consolidation were issued by the Agricultural Marketing Service's Dairy Division, in December 1996 and May 1997. The proposed rule, issued in January 1998, included consideration of public comments received in response to these preliminary reports.

The 1996 Farm Bill specifically provides for the inclusion of California as a separate Federal milk order, but the provision is contingent upon petition and approval by California producers. The Omnibus Consolidated and Emergency Supplemental Appropriations Bill, passed in October 1998, extended the time for implementing Federal milk order reform amendments from April 4, 1999 to October 1, 1999. The legislation provides that California has from the date of issuance of this final decision until September 30, 1999, to become a separate Federal milk order. This additional time is intended to allow California dairy interests the opportunity review this final decision to determine whether a Federal milk order for California, consistent with the provisions adopted for the consolidated orders, would best meet their milk marketing regulatory needs.

Over 150 comments were received that addressed the issue of a Federal milk order for California, with approximately 120 of them being a form letter advocating a California Federal milk order. These comments, and a number of additional individual comments, came primarily from commenters outside California who expressed a need for California and Federal order prices for milk used in manufactured products to be in closer alignment to eliminate California manufacturers' perceived competitive advantage in product prices.

Interest in a Federal milk order has been expressed by some California producers, but for the most part California commenters expressed a desire to have a chance to study and comment on this final decision before deciding whether to pursue a proposal for a California Federal order.

The preliminary reports, the proposed rule, and this final decision concerning order consolidation were prepared using data gathered about receipts and distribution of fluid milk products by all known distributing plants located in the 47 contiguous states, not including the State of California. Data describing the sources and disposition of fluid milk products for the month of October 1995 were used to compile the initial Preliminary Report. In response to comments and questions about certain marketing area boundaries and changes in marketing conditions in some of the markets after publication of the initial Preliminary Report, data concerning those markets was updated to January 1997, and more detailed information was gathered regarding the geographic distribution of route sales by individual handlers and their specific sources of producer milk. The updated and more detailed data were used in re-examining the appropriate boundaries of the initially-suggested Northeast, Appalachian, Southeast, Mideast, Central, and Western marketing areas for the Revised Preliminary Report on Order Consolidation. The Revised Preliminary Report, in turn, was modified on the basis of comments received for development of the proposed rule.

Nearly 1,300 comments filed in response to the proposed rule had some applicability to the topic of order consolidation. Approximately 750 of these comments were received as 6 form letters, one of which (filed by approximately 120 commenters) advocated a national marketing area map comprised of 10 order areas covering all of the contiguous 48 states. The other form letters advocated the addition of currently-unregulated area to the Northeast area. Another 350 comments also addressed the desirability of adding unregulated areas to the proposed consolidated marketing areas (primarily the Northeast), with only about 55 of these being opposed to the inclusion of unregulated areas.

The comments specifically applicable to each of the consolidated marketing areas are described in the sections dealing with the individual consolidated areas.

In combination with consideration of the comments received, data similar to that gathered for October 1995 were compiled for October 1997 to determine whether the consolidated marketing areas delineated in the proposed rule continued to represent the most appropriate boundaries for the purpose of implementing the requirements of the 1996 Farm Bill.

The October 1997 data allowed a “snapshot” of the marketing patterns of fluid milk processors for that month. The regulatory status of distributing plants for October 1997 is known, and the regulatory status of each plant could be projected on the basis of the plant’s receipts and dispositions, and where its milk was distributed. The information in the sections entitled “Distributing Plants” within the description of each marketing area are based on the October data, as are the lists of plants and pool plant status following the consolidation portion of this decision. It should be understood that the regulatory status of any plant can change whenever its operations or areas of distribution change.

The result of the examination and analysis of the more recent data in combination with the comments on the proposed rule was to modify significantly from the proposed rule the marketing areas of the proposed Northeast and Western orders, and to make very minor modifications to the marketing areas of the proposed Southeast, Mideast, Upper Midwest and Central orders.

As in the case of data referring to the operations of less than three handlers or producers in the preliminary reports and proposed rule, some of the data used to determine the consolidated areas is restricted from use by the public because it refers to individual fluid milk distributing plants and the origins of producer milk supply for those plants. However, the basis for the marketing area boundaries is described as specifically as possible without divulging such proprietary information.

The same seven primary criteria as were used in the two preliminary reports and the proposed rule were used to determine which markets exhibit a sufficient degree of association in terms of sales, procurement, and structural relationships to warrant consolidation. The criteria are as follows:

1. Overlapping route disposition. The movement of packaged milk between Federal orders indicates that plants from more than one Federal order are in competition with each other for Class I sales. In addition, a degree of overlap that results in the regulatory status of plants shifting between orders creates disorderly conditions in changing price relationships between competing handlers and neighboring producers. This criterion is considered to be the most important.

2. Overlapping areas of milk supply. This criterion applies principally to areas in which major proportions of the milk supply are shared between more than one order. The competitive factors affecting the cost of a handler’s milk supply are influenced by the location of the supply. The pooling of milk produced within the same procurement area under the same order facilitates the uniform pricing of producer milk. Consideration of the criterion of overlapping procurement areas does not mean that all areas having overlapping areas of milk procurement should be consolidated. An area that supplies a minor proportion of an adjoining area’s milk supply with a minor proportion of its own total milk production while handlers located in the area are engaged in minimal competition with handlers located in the adjoining area likely does not have a strong enough association with the adjoining area to require consolidation.

For a number of the consolidated areas it would be very difficult, if not impossible, to find a boundary across which significant quantities of milk are not procured for other marketing areas. In such cases, analysis was done to determine where the minimal amount of route disposition overlap between areas occurred, and the criterion of overlapping route disposition generally was given greater weight than overlapping areas of milk supply. Some analysis also was done to determine whether milk pooled on adjacent markets reflects actual movements of milk between markets, or whether the variations in amounts pooled under a given order may indicate that some milk is pooled to take advantage of price differences rather than because it is needed for Class I use in the other market.

3. Number of handlers within a market. Formation of larger-size markets is a stabilizing factor. Shifts of milk and/or plants between markets becomes less of a disruptive factor in larger markets. Also, the existence of Federal order markets with handlers too few in number to allow meaningful statistics to be published without disclosing proprietary information should be avoided.

4. Natural boundaries. Natural boundaries and barriers such as mountains and deserts often inhibit the movement of milk between areas, and generally reflect a lack of population (limiting the range of the consumption area) and lack of milk production. Therefore, they have an effect on the placement of marketing area boundaries. In addition, for the purposes of market consolidation, large unregulated areas and political boundaries also are considered a type of natural barrier.

5. Cooperative association service areas. While not one of the first criteria used to determine marketing areas, cooperative membership often may be an indication of market association. Therefore, data concerning cooperative membership can provide additional support for combining certain marketing areas.

6. Features or regulatory provisions common to existing orders. Markets that already have similar regulatory provisions that recognize similar marketing conditions may have a head start on the consolidation process. With calculation of the basic formula price replacement on the basis of components, however, this criterion becomes less important. The consolidation of markets having different payment plans will be more dependent on whether the basic formula component pricing plan is appropriate for a given consolidated market, or whether it would be more appropriate to adopt a pricing plan using hundredweight pricing derived from component prices.

7. Milk utilization in common dairy products. Utilization of milk in similar manufactured products (cheese vs. butter-powder) was also considered to be an important criterion in determining how to consolidate the existing orders.

Comments on consolidation criteria.

Most of the comments relative to order consolidation criteria were submitted prior to publication of the proposed rule. It was the overall opinion of the commenters that overlapping route disposition and milk procurement are the most important criteria to consider in the consolidation process. In addition, Class I use percentages and regulation on the basis of handler location were noted as important criteria to consider. To some extent, the consolidated marketing areas included in this final decision do combine markets with similar Class I utilization rates rather than markets that would result in Class I use percentages being more uniform between markets. This result occurs because adjoining markets, where most of the sales and procurement competition takes place between handlers regulated under different orders, tend to have similar utilization rates rather than because the criterion is one that should be used to determine appropriate consolidations. Also, Class I utilization rates are a function of how much milk is pooled on an order with a given amount of Class I use. Differences in rates, to the extent they result in differences in blend prices paid to producers, provide an incentive for milk to move from markets with lower Class I utilization percentages to markets with higher Class I use.

Regulation of processors on the basis of their location rather than their sales areas has largely been incorporated in the consolidated orders by a provision that would pool a handler under the order for the area in which the handler is located unless more than 50 percent of the handler’s Class I route dispositions are distributed in another order area. This provision should help to assure that the order under which a distributing plant is pooled will not change from month to month, and that a plant operator is subject to the same provisions, such as producer pay prices, as are its primary competitors.

The consolidated orders also include provisions that lock plants processing primarily ultra-high temperature (UHT) or extended shelf-life milk into regulation under the order for the area in which the plant is located. Such plants often have widely dispersed route sales into a number of order areas, with sporadic deliveries to different areas. Without some type of lock-in provision, such a plant may be pooled in several different orders in as many months. At the same time, the plant’s milk supply generally is procured from a given group of producers located in the same area as the UHT (or extended shelf-life) plant. Having the plant pooled under a succession of different orders with widely varying blend prices creates a disorderly condition for the producers involved.

On the basis of the distributing plant pooling standards included for all eleven orders in this final decision, there are three non UHT pool distributing plants that would have more sales in an order area other than the one in which they are regulated. Two of these plants are the Superbrand Dairy Products distributing plant in Greenville, South Carolina, and the Kroger Dairy distributing plant in Winchester, Kentucky, both located in the Appalachian order, but which likely will qualify for pooling under the Southeast and Mideast orders. In addition, the Hiland Dairy plant in Fayetteville, Arkansas, in the Southeast consolidated area, likely will qualify for pooling under the Central order. In cases in which these plants compete almost entirely for a producer milk supply in the area in which they are located, lock-in provisions are incorporated to assure that the plant is pooled where located for the purpose of competitive equity.

Some changes in regulatory status are expected to occur because of the addition of regulated area (in the Northeast), the consolidation of marketing areas, changes in pooling standards, and changes in the definitions of types of plants. The expected changes are based on data collected for October 1997 and may differ in some respects at the time the consolidated orders go into effect.

The regulatory status of three Vermont handlers is expected to change from partially regulated to fully regulated because a significant percentage of their sales is in areas that will be added to the Northeast consolidated marketing area, and a partially-regulated New York handler is expected to meet the pooling standards because of the consolidation of marketing areas. Two other currently partially regulated handlers, one in New York and one in Vermont, are expected to become fully regulated because the pooling provisions of the consolidated order will be more like those of all the other orders than is currently the case in the New York-New Jersey order. Two plants that currently are fully regulated on the basis of the “grandfather” clause of the New York-New Jersey order will become partially regulated when this provision ceases to exist.

In the consolidated Appalachian marketing area, two distributing plants, one currently unregulated and one partially regulated, would become fully regulated as a result of including the marketing area of the Tennessee Valley order, terminated in October 1997. These plants both were fully regulated under the Tennessee Valley order, and lost their regulatory status as a result of the termination.

A plant currently partially regulated under the Southeast order would become fully regulated as a result of “locking in” to regulation plants that distribute primarily UHT or extended shelf-life products. Another Southeast distributing plant, currently fully regulated, would become partially regulated because of failure to meet the consolidated order’s pooling standards.

Two distributing plants that currently are partially regulated under the Chicago Regional order would become fully regulated under the consolidated Upper Midwest order because of a change in the definition of receipts that are used in the calculation of percentage of total receipts used in route disposition for the determination of pool status.

Three plants, one in each of the consolidated Upper Midwest, Central, and Pacific Northwest marketing areas, would change regulatory status as depicted in the attached list of distributing plants and regulatory status. These plants are distributing plants that are listed as being fully regulated in October 1997 and becoming either partially regulated or exempt under the consolidated orders. These plants, having small amounts of route dispositions, actually were pooled on the basis of their performance as supply plants or as part of supply plant units. It is unknown whether they will continue to qualify as pool supply plants, but will not meet the pool distributing plant standards of the consolidated orders.

In the Pacific Northwest, the Oregon and Washington State prison systems both operate fluid processing plants that have route distribution in commercial channels, competing with regulated handlers. These plants are not currently fully regulated. Under the consolidated order, one of the plants will be partially regulated only with respect to its commercial sales, and the other will be exempt on the basis of size.

Several comments advocated that all of a state’s territory should be included in one Federal order to assure that all producers in a state are paid on an equitable basis, or to make it easier to maintain state statistical data. One of the primary reasons for Federal milk orders is that milk marketing occurs readily across state boundaries, making state milk marketing regulation more difficult to enforce. It is important that Federal milk marketing areas continue to recognize the free interstate movement of milk to and from milk plants. There are cases where natural boundaries such as mountains or rivers may result in part of a state having a closer marketing relationship with an adjoining state than with other areas of the same state.

Although the Revised Preliminary Report suggested that several currently non-Federally regulated areas be added to some consolidated marketing areas, the proposed rule omitted areas in which handlers are subject to minimum Class I pricing under State regulation unless the affected handlers or States requested inclusion. This final decision continues to omit such areas, and also omits currently-unregulated areas that comprise a significant distribution area for currently-unregulated handlers, some of which were proposed to be included in consolidated areas.

Considering the requirements of the 1996 Farm Bill, consolidation of the existing orders does not necessitate expansion of the consolidated orders into unregulated areas or areas in which handlers are subject to minimum Class I pricing under State regulation, especially when the states’ Class I prices exceed or equal those that would be established under Federal milk order regulation. Such regulation could have the effect of reducing returns to producers already included under State regulation without significantly affecting prices paid by handlers who compete with Federally-regulated handlers.

However, there are numerous counties and portions of counties located within and between Federal order marketing areas that have not been included in the defined order areas during the course of the more than 60 years the program has developed. In some cases, these small areas were left unregulated many years ago to maintain the unregulated status of a small handler. In others, these areas probably formed a “buffer” between separate smaller order areas and were not incorporated when the smaller orders were merged. Some of these areas form “buffer” zones today between current order areas that will be consolidated in the course of this process. These areas should be included in the defined consolidated marketing areas if their inclusion would not have the effect of regulating any unregulated handlers who currently distribute milk in these areas. The issue of whether to regulate currently-unregulated areas is discussed in more detail with regard to the individual consolidated marketing areas in the sections of this decision dealing with those areas, especially the Northeast area.

The occurrence of partial counties in marketing area definitions should be minimized for the purpose of simplifying handlers’ reporting burden. The continued existence of these unregulated areas, partially regulated counties, and counties split between marketing areas serves only to complicate the reporting of route dispositions outside the marketing area by regulated distributing plant handlers for the purpose of determining pool qualifications and increase the costs of administering the orders.

In order to avoid extending Federal regulation to handlers whose primary sales areas are outside current Federal order marketing areas and who currently are not subject to Federal order regulation, it has been determined that the appropriate in-area Class I disposition percentage portion of the pool distributing plant definition is 25 percent for all orders. Discussion of this provision is included in the section of this decision dealing with identical provisions. The 25-percent level of in-area sales will assure that currently-regulated handlers retain their pool status. At the same time, increasing from current levels the percentage of in-area sales required for pool status under the consolidated orders will allow State-regulated and most other non-Federally regulated handlers to operate at their current level of sales within Federal order areas without being subject to full Federal order regulation.

Cornell University Study.

In addition to AMS' analysis of the receipt and distribution data in the development of this decision, researchers at Cornell University also provided input on potential consolidated marketing areas early in the Federal order reform process. This input was part of Cornell's partnership agreement with AMS to provide alternative analyses on Federal order reform issues. These researchers used an economic model (the Cornell U.S. Dairy Sector Simulator, or USDSS), to determine 10-14 optimal marketing areas. Cornell's first options for 10-14 marketing areas were presented at an October 1996 invitational workshop for dairy economists and policy analysts held in Atlanta, Georgia. Based on USDSS model results, these options would result in minimum cost flows of milk using the known concentrations of milk production and population, without considering the location of milk plants. The marketing area maps that were circulated using these first results were those referenced by interested persons who cited the Cornell results in their comments on the Preliminary Reports on Order Consolidation and on the proposed rule.

A second set of options was presented by Cornell researchers in spring 1997. These options were generated with a further-developed USDSS model. In updating the model, the researchers enhanced the inputs to its model as a means of better reflecting the actual structure of the national market for fluid milk products. These model updates allowed for determination of the minimum cost flows of: milk, intermediate and final products from producers to plants; from plants to plants; and from plants to consumers on the basis of the locations of milk supplies, dairy product processing plants, and consumers. The enhanced model is intended to provide for geographic market definition on the basis of a resulting set of optimal, efficient simulated flows of milk and dairy products between locations.

Although the USDSS model considers important factors such as milk supply and demand locations and transportation constraints in determining the optimal consolidated marketing areas, it aggregates processing locations, sometimes at locations that are not representative of where substantial volumes of milk are processed. In addition, the model does not consider several important factors such as large areas that are not Federally regulated and certain economic factors which influence the movement of milk.

AMS is unaware of any other analyses performed to determine or suggest consolidated marketing areas.

As noted before, AMS' analysis focused initially on distributing plant receipts and distribution information for October 1995, updated as needed for further analysis during development of the proposed rule. Equivalent data was gathered for October 1997 to assure that the consolidated marketing areas continue to represent actual marketing relationships between the current order areas, with more current information used as needed for further analysis. The data gathered by the Dairy Division from Federal Milk Market Administrators reflects actual movements of milk, both from production areas to processing plants, and from processing plants to consumption areas. This final decision considers this data, the seven criteria described fully above, and information provided by the USDSS model analysis.

The consolidated marketing area options presented by Cornell are not adopted because the USDSS model does not adequately reflect issues or factors that strongly affect which current marketing areas are most closely related. For this reason, this decision is based on data reflecting actual distribution and procurement by fluid milk processing plants.

Marketing Areas.

Following are maps of the current marketing areas and the 11 consolidated marketing areas, followed by brief descriptions of the marketing areas (with those modified from the Proposed Rule, and the modifications, marked by *****) and the major reasons for consolidation. A more detailed description of each consolidated order follows this summary.

At the end of the Order Consolidation portion of this decision is appended a list of distributing plants associated with each consolidated marketing area, with each plant's expected regulatory status, determined on the basis of data describing the plants' operations during October 1997.

INSERT MAP OF CURRENT MARKETING AREAS

MAP -1

INSERT MAP OF CONSOLIDATED MARKETING AREAS

Map 2

ELEVEN CONSOLIDATED MARKETING AREAS.

*****1. **NORTHEAST** - current marketing areas of the New England, New York-New Jersey and Middle Atlantic Federal milk orders, with the addition of: the contiguous unregulated areas of New Hampshire, northern New York and Vermont; and the non-Federally regulated portions of Massachusetts. *****The Western New York State order area (ten entire and 5 partial western New York counties) proposed to be included in the expanded Northeast order area has been omitted. The handlers who would be added to those currently fully regulated under the three separate orders either have a sufficient percentage of their route disposition within the consolidated marketing area to meet the pooling requirements or are located in the area to be added.

Reasons for consolidation include the existence of overlapping sales and procurement areas between New England and New York-New Jersey and between New York-New Jersey and Middle Atlantic. An important measure of association is evidenced by industry efforts to study and pursue consolidation of the three Federal orders prior to the 1996 Farm Bill.

2. **APPALACHIAN** - Current marketing areas of the Carolina and Louisville-Lexington-Evansville (minus Logan County, Kentucky) Federal milk orders plus the marketing area of the former Tennessee Valley order, with the addition of 21 currently-unregulated counties in Indiana and Kentucky.

Overlapping sales and procurement areas between these marketing areas are major factors for this consolidation.

3. **FLORIDA** - current marketing areas of the Upper Florida, Tampa Bay, and Southeastern Florida Federal milk orders.

Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders.

*****4. **SOUTHEAST** - current marketing area of the Southeast Federal milk order, plus 1 county from the Louisville-Lexington-Evansville Federal milk order marketing area; plus 11 northwest Arkansas counties and 22 entire Missouri counties that currently are part of the Southwest Plains marketing area; plus 6 Missouri counties that currently are part of the Southern Illinois-Eastern Missouri marketing area; plus 16 currently unregulated southeast Missouri counties (including 4 that were part of the former Paducah marketing area); plus 20 currently-unregulated Kentucky counties (including 5 from the former Paducah marketing area). *****A partial Missouri county that has been part of the Southwest Plains marketing area will become completely unregulated to minimize the reporting complications caused by partially regulated counties.

Major reasons for this consolidation include sales and procurement area overlaps between the Southeast order and these counties.

***5. MIDEAST** - current marketing areas of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan and Indiana Federal milk orders, plus Zone 2 of the Michigan Upper Peninsula Federal milk order, and most currently-unregulated counties in Michigan, Indiana and Ohio. *****One partial and 3 entire counties in north central Ohio are left unregulated, since they represent the distribution area of a currently-partially regulated distributing plant (Toft Dairy in Sandusky, Ohio).

Major criteria for this consolidation include the overlap of fluid sales in the Ohio Valley marketing area by handlers from the other areas to be consolidated. With the consolidation, most route disposition by handlers located within the Mideast order would be within the marketing area. Also, nearly all milk produced within the area would be pooled under the consolidated order. The portion of the Michigan Upper Peninsula marketing area included in the Mideast consolidated area has sales and milk procurement areas in common with the Southern Michigan area and has minimal association with the western end of the current Michigan Upper Peninsula marketing area.

*****6. **UPPER MIDWEST** - current marketing areas of the Chicago Regional, Upper Midwest, Zones I and I(a) of the Michigan Upper Peninsula Federal milk orders, and unregulated portions of Wisconsin. *****The Iowa Federal order marketing area portion of one Illinois county, in which Chicago Regional handlers have the preponderance of sales, is added to the consolidated Upper Midwest marketing area, and the Chicago Regional portion of another Illinois county, in which Iowa order handlers have the preponderance of sales, is removed and added to the consolidated Central area. These changes will reduce overlapping route disposition between the two consolidated orders and reduce the incidence of partial counties in marketing areas.

Major consolidation criteria include an overlapping procurement area between the Chicago Regional and Upper Midwest orders and overlapping procurement and route disposition area between the western end of the Michigan Upper Peninsula order and the Chicago Regional order. A number of the same cooperative associations market member milk throughout the consolidated area.

*****7. **CENTRAL** - current marketing areas of the Southern Illinois-Eastern Missouri, Central Illinois, Greater Kansas City, Southwest Plains, Eastern Colorado, Nebraska-Western Iowa, Eastern South Dakota, Iowa (***** less the portion of an Illinois county that will become part of the consolidated Upper Midwest area) and

*****Western Colorado Federal milk orders, ***** plus the portion of an Illinois county currently in the Chicago Regional Federal order area, minus 11 northwest Arkansas counties and 1 partial and 22 entire Missouri counties that are part of the current Southwest Plains marketing area, minus 6 Missouri counties that are part of the current Southern Illinois-Eastern Missouri marketing area, plus 54 currently-unregulated counties in Kansas, Missouri, Illinois, Iowa, Nebraska and Colorado, plus 8 counties in central Missouri *****(six fewer than in the proposed rule) that are not considered to be part of the distribution area of an unregulated handler in central Missouri, *****plus 7 currently unregulated Colorado counties located between the current Western and Eastern Colorado order areas.

This configuration would leave 31 unregulated counties in central Missouri that are intended to delineate the distribution area of Central Dairy at Jefferson City, Missouri, which has limited distribution in Federal order territory.

Major criteria on which this consolidation is based include overlapping route disposition and procurement between the current orders. The consolidation would result in a concentration of both the sales and supplies of milk within the consolidated marketing area. The consolidation would combine several relatively small orders and provide for the release of market data without revealing proprietary information. In addition, many of the producers in these areas share membership in several common cooperatives. The Western Colorado area has become more closely associated with the Eastern Colorado area than with the Great Basin area since issuance of the proposed rule.

8. **SOUTHWEST**- current marketing areas of Texas and New Mexico-West Texas Federal milk orders, with the addition of two currently-unregulated northeast Texas counties and 47 currently-unregulated counties in southwest Texas.

Major criteria supporting this consolidation include sales and procurement area overlaps and common cooperative association membership between the Texas and New Mexico-West Texas marketing areas, and similar marketing concerns with respect to trade with Mexico for both orders. Addition of the currently-unregulated Texas counties will result in the regulation of no additional handlers, and will reduce handlers’ recordkeeping and reporting burden and the market administrator’s administrative costs.

9. **ARIZONA-LAS VEGAS** - current marketing area of Central Arizona, plus the Clark County, Nevada, portion of the current Great Basin marketing area, plus eight currently-unregulated Arizona counties.

The major criterion on which the consolidation is based is sales overlap between the sole Las Vegas, Nevada, handler and handlers regulated under the Central Arizona order in both Clark

County, Nevada, and unregulated portions of northern Arizona. The Grand Canyon and sparsely populated areas in the northwest part of Arizona, and the sparsely populated desert region of eastern Arizona constitute natural barriers between this and adjacent marketing areas. In addition, the most significant relationship between this area and any other is represented by the substantial volumes of bulk and packaged milk exchanged between the Arizona-Las Vegas area and Southern California.

*****10. **WESTERN** - current marketing areas of the Southwestern Idaho-Eastern Oregon and Great Basin Federal milk orders, minus Clark County, Nevada. *****The Western Colorado order area, proposed to be included in the Western order area, is instead included in the consolidated Central order. The major criteria on which the consolidation is based include overlapping sales between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in five Idaho counties. The two orders also have similar multiple component pricing plans and most of the milk used in nonfluid products under both orders is used in cheese.

Collection of detailed data for individual handlers indicates that the strength of earlier relationships between the former Great Basin and Lake Mead orders that justified their 1988 merger have dwindled significantly, with the Las Vegas area now more closely related to a combination of southern California and Central Arizona handlers.

11. **PACIFIC NORTHWEST** - current marketing area of the Pacific Northwest Federal milk order plus 1 currently-unregulated county in Oregon. The degree of association with other marketing areas is insufficient to warrant consolidation.

Table 1. MARKET INFORMATION: Population, Utilization, Producer Milk and Weighted Average Utilization Value (WAUV) in Consolidated Marketing Areas

MARKET	**Population**[1] (millions)	**Class I Utilization**[2] (percent)	**Producer Milk**[2] (1000 lbs.)	**WAUV**[2,3] (per cwt)
Northeast	49.0	48.6	1,962,335	$ 13.97
Appalachian	17.3	85.0	410,372	$ 13.35
Florida	14.1	90.6	217,952	$ 15.69
Southeast	26.9	85.6	482,499	$ 13.60
Mideast	31.0	58.9	1,040,112	$ 13.42
Upper Midwest	18.5	24.1	1,597,232	$ 12.94
Central	21.5	50.1	868,443	$ 13.29
Southwest	21.3	53.4	649,872	$ 13.97
Arizona-Las Vegas	5.7	46.3	195,943	$ 13.84
Western	3.2	32.5	304,129	$ 13.14
Pacific Northwest	9.0	35.6	539,987	$ 13.33
TOTAL	**217.5**	**N/A**	**7,756,390**	**N/A**

[1] Based on July 1, 1997 estimates.
[2] Based on October 1997 information, for plants which would be fully regulated under assumptions used in this decision.
[3] **Not a blend price** -- shown solely for the purpose of showing impact of consolidation on utilization.

Table 2. MARKET INFORMATION: Number of Plants in Consolidated Marketing Areas

MARKET	DISTRIBUTING PLANTS[1]			MANUFACTURING AND SUPPLY PLANTS[3]
	Fully Regulated (FR)	Exempt[2]	FR Small Businesses	
Northeast	64	9	31	95
Appalachian	25	3	4	13
Florida	12	1	2	4
Southeast	36	1	3	37
Mideast	51	4	27	59
Upper Midwest	27	3	13	301
Central	35	3	7	84
Southwest	21	2	5	17
Arizona-Las Vegas	5	1	2	3
Western	11	1	5	18
Pacific Northwest	19	4	12	27
TOTAL	**306**	**32**	**111**	**669**

[1] Based on October 1997 information. Excludes: (1) out-of-business plants through December 1998; and (2) new plants since October 1997.
[2] Exempt based on size (less than 150,000 lbs. route distribution per month).
[3] Based on May 1997 information.

Descriptions of Consolidated Marketing Areas.

Each of the consolidated order areas is described in the text following this introduction. The criteria which were used to determine which areas should be consolidated are explained. For each consolidated area, the following information is included:

Geography. The political units (states, counties, and portions of counties) included in each area, the topography, and the climatic conditions are described for the purpose of delineating the territory to be incorporated in each consolidated marketing area and describing its characteristics pertaining to milk production and consumption. This information was derived principally from Microsoft® Encarta® 96 Encyclopedia, and augmented by several U.S. atlases.

Population. The total population of each area and its distribution within the area is included for the purpose of identifying where milk is consumed. July 1, 1997, population estimates were obtained from “CO-97-1 Estimates of the Population of Counties,” Population Estimates Program, Population Division of the U.S. Bureau of the Census.

Metropolitan Statistical Area (MSA) information is provided by the United States Office of Management and Budget (OMB), which defines metropolitan areas according to published standards that are applied to Census Bureau data. To be described as an MSA, an area (one or more counties) must include at least one city with 50,000 or more inhabitants, or a Census Bureau-defined urbanized area (of at least 50,000 inhabitants) and a total metropolitan population of at least 100,000 (75,000 in New England). Areas with more than 1 million population may be described as “consolidated metropolitan statistical areas” (CMSAs) made up of component parts designated as primary metropolitan statistical areas (PMSAs). For purposes of the marketing area descriptions in this decision, the term “MSA” also includes CMSAs and PMSAs.

Per capita consumption. Available data pertaining to per capita consumption is discussed to help describe how much milk is needed to supply the fluid needs of the population of each marketing area. Per capita consumption numbers were estimated by state using data from a report on “Per Capita Sales of Fluid Milk Products in Federal Order Markets,” published in the December 1992 issue of Federal Milk Order Market Statistics, #391, issued May 1993. This data was the most recent available.

Production. A description of the amount and sources of milk production for the market is included for the purpose of identifying the supply area for each consolidated marketing area. Production data by state and county for each Federal milk order was compiled from information collected by the offices administering the current Federal milk orders (market administrators’ offices). For most of the consolidated marketing areas, production data has been updated to October 1997. For several of the consolidated areas, however, October 1997 data is difficult to compile and, when compared with previously published statistics, may yield confidential information. For these areas, the data cited in the proposed rule has been used to describe the sources of milk for the consolidated market.

Distributing plants. For each marketing area the number and types of distributing plants expected to be associated with each marketing area are included, with the locations of plants by population centers, to identify where milk must be delivered. This information was collected by market administrators' offices. The expected regulatory status was determined on the basis of each plant's receipts and route distribution of fluid milk during October 1997. Changes in plant operations or distribution patterns could change the expected status.

Utilization. The utilization percentages of the current individual orders and the effect of consolidation on the consolidated orders are described for each marketing area, with an estimate of the effect of consolidation on each current individual order's blend price. The current utilization data is published each month for each Federal milk order market. Pool data was used to calculate the effects of consolidation on utilization.

Other plants. The presence of manufacturing and supply plants in and near the consolidated order areas, and the products processed at these plants, are described for each consolidated area. This information was collected by market administrators' offices for May 1997, and has been changed from the proposed rule only where changes from the proposed marketing areas have occurred.

Cooperative Associations. The number of cooperative associations pooling member milk under each of the current individual orders included in each consolidated area, and the number that pool milk in more than one of the areas is identified. This information was obtained from market administrators' offices, updated to December 1997 from the proposed rule. For purposes of the consolidation discussion, the four cooperative associations that combined to create Dairy Farmers of America (DFA) are considered to be a single organization.

Criteria for Consolidation. The extent to which the criteria used in identifying markets to be consolidated are supported by the marketing conditions present in each of the consolidated areas is discussed.

Discussion of comments and alternatives. Comments filed in response to the consolidation section of the proposed rule and alternatives considered are summarized and discussed for each consolidated area.

NORTHEAST.

The consolidated Northeast marketing area is comprised of the current New England, New York-New Jersey, and Middle Atlantic Federal milk order marketing areas (Orders 1, 2, and 4), with currently-unregulated areas in northern New York, Vermont and New Hampshire added. The entire areas of the States of Connecticut (8 counties), Delaware (3 counties), Massachusetts (14 counties), New Hampshire (10 counties), New Jersey (21 counties), Rhode Island (5 counties), and Vermont (14 counties) are contained within the consolidated Northeast order area. In addition, the District of Columbia, 21 counties and the City of Baltimore in Maryland, 41 complete and 3 partial counties and the 5 boroughs of New York City in New York, the 15 Pennsylvania counties currently included in the Middle Atlantic marketing area, and 4 counties and 5 cities in Virginia are included in the consolidated order. There are 156 complete and 3 partial counties and 8 cities, including the District of Columbia, in the consolidated Northeast marketing area.

The Western New York State order area, proposed to be included in the consolidated Northeast area, is not included at the request of the business entity that would be most affected by its inclusion because the currently-unregulated portions of Pennsylvania are not included.

Geography.

The Northeast marketing area extends from the Canadian border on the north, south to northern Virginia, eastern Maryland and Delaware, with its eastern edge along the western border of Maine at the northern end of the marketing area, and along the Atlantic Ocean for the remainder. The total northeast-southwest extent of the marketing area is approximately 600 miles. The marketing area extends westward to Lake Ontario in New York State (about 350 miles east to west), goes only as far west as the northern part of New Jersey (about 60 miles), and expands westward again across the eastern half of southern Pennsylvania, taking in a small part of northeast Virginia, eastern Maryland, and Delaware (about 230 miles east to west). There is a large State-regulated area in Pennsylvania just to the west of the Northeast marketing area; and most of the State of Virginia to the south of the marketing area also is regulated under a State order. The consolidated Northeast marketing area is contiguous to no other consolidated marketing areas, but parts of it, in south central New York State and south central Pennsylvania, are very close to the consolidated Mideast area.

The northern and northwestern parts of the Northeast area are large areas of coniferous forests that are somewhat mountainous. To the south and southeast of the forested areas are areas where dairy farming predominates as the primary type of agriculture. In fact, for 4 of the 10 states that are located in the Northeast marketing area (New Hampshire, New York, Pennsylvania and Vermont) dairy products were the number 1 agricultural commodity in terms of cash receipts during 1996. Principally along the Atlantic coastline is a flatter area where other agricultural activities, including greenhouse and nursery, fruit, truck and mixed farming, take place. A near-continuous strip along the east coast of the area, from northeast Massachusetts southwest to the Baltimore area, is a major industrial area and is heavily populated.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated Northeast marketing area is 49 million. The area is very densely populated, especially along a coastal strip extending from Boston, Massachusetts, in the northeast to Washington, D.C., in the southwest. In this consolidated marketing area of approximately 160 counties, 106 are included within Metropolitan Statistical Areas (MSAs). The 20 Metropolitan Statistical Areas in the consolidated Northeast marketing area account for 93.7 percent of the total market area population.

Almost sixty percent of the marketing area population is located in 6 interconnected MSAs in 48 counties, extending from central New Jersey to southern New Hampshire. The six MSAs are: Springfield, Massachusetts; Boston-Worcester-Lawrence, Massachusetts/New Hampshire/Maine/Connecticut; Providence-Fall River-Warwick, Rhode Island/Massachusetts; New London-Norwich, Connecticut/Rhode Island; Hartford, Connecticut; and New York-Northern New Jersey-Long Island, New York/New Jersey/Connecticut/ Pennsylvania. The population in this northeastern portion of the marketing area is concentrated most heavily at its northern and southern ends -- the New York City area has a population of approximately 20 million, and the Boston area's population is approximately 5.5 million. Two of the other MSAs, Hartford and Providence, each have over 1 million population. Although each of these six MSAs is described as a separate area in the population data, many of the counties involved are divided between separate MSAs.

Just southwest of the New York City MSA is the Philadelphia-Wilmington-Atlantic City, Pennsylvania/New Jersey/Delaware/ Maryland MSA, with a population of 6 million. Some counties of these two MSAs are adjacent. Southwest of the Philadelphia MSA and separated from it by only one county is the Washington, DC/Baltimore, Maryland/northern Virginia MSA, with a population in the consolidated marketing area of 6.8 million.

Of the 12 other MSAs in the consolidated marketing area, 6 are located in New York State, with an average population of nearly 400,000 each. Two are located in Pennsylvania, with populations of .6 and .45 million. One MSA in Vermont, 1 in Delaware, and 2 in Massachusetts have average populations of 163,000.

Fluid Per Capita Consumption.

Fluid per capita consumption estimates vary within the Northeast from 16.7 pounds per month in the more southern parts of the region to 20 pounds per month in New England. These rates would result in a weighted average of 18 pounds per month, and an estimated total fluid milk consumption rate of 882 million pounds per month for the Northeast marketing area. Approximately 752 million pounds of this fluid milk consumption would be required along the heavily-populated coastal area extending from northeast Massachusetts southwest through Washington, D.C. and northern Virginia. Handlers who would have been fully regulated under the consolidated Northeast order during October 1997 distributed 828.1 million pounds within the consolidated marketing area. October 1997 sales within the marketing area by handlers that would be regulated by other orders totaled 6.2 million pounds, and sales by handlers who would have been partially regulated were 18.9 million pounds. Sales in the marketing area by exempt and government plants, and by producer-handlers totaled 6.6 million pounds.

Milk Production.

In October 1997, nearly 19,000 producers from 13 states pooled 1.9 billion pounds of milk on the three orders comprising the consolidated Northeast order. With the addition of several currently-unregulated handlers, it is probable that approximately 2 billion pounds of milk per month will be pooled under the Northeast order.

Eleven of the 13 states supplying milk to the three Federal order pools are at least partly in the marketing area, and 84 percent of the producer milk pooled under the three orders in October 1997 came from just 3 states – New York (41.5 percent), Pennsylvania (32.2 percent), and Vermont (10.3 percent). Over 10 million pounds of milk was produced in each of fifty-one counties: 1 county in northeast Connecticut, 3 in the most northwestern of the Maryland portion of the marketing area, 30 spread over most of New York, 1 on the western edge of northern Virginia, and 16 in southeast to south central Pennsylvania and in the eastern part of the northern tier of Pennsylvania counties, with an additional Pennsylvania county, Lancaster, accounting for over 150 million pounds of milk. Over seventy percent of the markets' total producer milk was produced within the consolidated marketing area.

Less than one-third of the milk production for the consolidated market was produced within 100 miles of the heavily populated coastal corridor. Although the Northeast area contains two out of the top five milk-producing states in the U.S. (New York and Pennsylvania), the population of the marketing area is nearly 20 million more than the next most-populated consolidated area (the Mideast area, with 31 million people). The Northeast, therefore, is a very significant milk production area with a very high demand for fluid milk and dairy products.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards at 25 percent of route dispositions as in-area sales, and updated for known plant closures through December 1998, 141 distributing plants would be expected to be associated with the Northeast marketing area. On the basis of data collected for October 1997, the plants associated would include 64 fully regulated distributing plants (58 currently fully regulated, 5 currently partially regulated, and 1 currently unregulated), 15 partially regulated (2 currently fully regulated and 13 currently partially regulated). Nine exempt plants having less than 150,000 pounds of total route disposition per month (3 currently fully regulated, 2 currently partially regulated, 2 currently exempt based on size, and 2 currently unregulated) and 47 producer-handlers (45 currently producer-handlers, 1 currently partially regulated, and 1 currently unregulated) would have been associated with the market during October 1997. Three handlers who currently are exempt based on institutional status would continue to be exempt on the same basis, and 3 handlers located in the Western New York order area who would have been fully regulated under the proposed rule would continue to be unregulated under any Federal order.

Since October 1997, 14 distributing plants (3 in New York, 2 in each of the States of Massachusetts, Maryland, New Jersey, Pennsylvania and Vermont, and 1 in Connecticut), have gone out of business.

Less than half (60) of the Northeast distributing plants which were identified as being in business as of December 1998 were located in the 6 Northeast MSAs that have over a million people each. This number includes 31 of the pool distributing plants. Under the consolidated order, it is anticipated that there would be 5 pool distributing plants in the Boston-Worcester-Lawrence area, 6 in the Philadelphia-Wilmington-Atlantic City area, and 11 in the New York-Northern New Jersey-Long Island area. The Hartford, Connecticut, area would have 2 pool distributing plants, Providence-Fall River-Warwick would have 3, and the Washington-Baltimore area would have 4 pool distributing plants.

Of the remaining 81 distributing plants, 14 pool distributing plants were located in other MSAs as follows: 8 in New York; 4 in Pennsylvania; and 2 in Massachusetts. Sixty-seven distributing plants, including 19 pool distributing plants, were not located in MSAs.

Utilization.

According to October 1997 pool statistics for handlers who would be fully regulated under this Northeast order, the Class I utilization percentages for the New England, New York-New Jersey, and Middle Atlantic markets were 52, 45, and 53 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Northeast order, the potential impact of this decision on producers who supply the current market areas is estimated to be: New England, a 9-cent per cwt decrease (from $14.09 to $14.00); New York-New Jersey, a 8-cent per cwt increase (from $13.91 to $13.99); and Middle Atlantic, a 10-cent per cwt decrease (from $14.00 to $13.90). The weighted average use value for the consolidated Northeast order market is estimated to be $13.97 per cwt. For October 1997, combined Class I utilization for Orders 1, 2 and 4 was 47.7 percent based on 917.3 million pounds of producer milk used in Class I out of 1.922 billion total producer milk pounds.

The Northeast area is one of two consolidated marketing areas that would have a significantly higher-than-average percentage of its milk used in Class II. Currently, all three of the orders have Class II utilization between 15 and 25 percent. When the markets are combined the average for the consolidated market will be approximately 18 percent.

Other Plants.

Located within the consolidated Northeast marketing area during May 1997 were 95 supply or manufacturing plants: 13 in Vermont (4 in the Burlington area), 1 in New Hampshire and 10 in Massachusetts (all in the Boston-Worcester-Lawrence area), 1 in Rhode Island (in the Providence-Fall River-Warwick area), 7 in Connecticut (3 in the Hartford area and 4 in the New York-Northern New Jersey-Long Island area), 12 in New Jersey (all in the New York-Northern New Jersey-Long Island area), 2 in Delaware (one in the Philadelphia-Wilmington-Atlantic City area), 7 in Maryland (four in the Washington-Baltimore area), 13 in Pennsylvania (5 in the Philadelphia-Wilmington-Atlantic City area), and 29 in New York (9 in the New York-Northern New Jersey-Long Island area).

Fifteen of the 95 plants are pool plants. Of these pool plants, 7 are manufacturing plants — 5 manufacture primarily powder, 1 manufactures primarily cheese and 1 manufactures primarily other products. There are 8 pool supply plants — 1 has no primary product, but ships only to distributing plants; 5 are supply plants that manufacture primarily Class II products, and 2 supply plants manufacture primarily cheese. Of the remaining 80 nonpool plants in the Northeast marketing area, 73 are manufacturing plants — 37 manufacture primarily Class II products, 1 manufactures primarily butter, 33 manufacture primarily cheese and 2 manufacture primarily other products. Seven of the remaining nonpool plants are supply plants — 2 are supply plants that manufacture primarily Class II products and 5 are supply plants that manufacture primarily cheese.

There are also six supply or manufacturing plants in the unregulated area of New York — one in the unregulated county of Chautauqua, one in the unregulated portion of Cattaraugus County, two in the unregulated portion of Allegany County, and two in the unregulated portion of Steuben County. Two are pool supply plants — one manufactures primarily Class II products and the other manufactures primarily cheese. The remaining four are nonpool manufacturing plants -- three manufacture primarily cheese and one manufactures primarily Class II products.

Cooperative Associations.

During December 1997, 76 cooperative associations pooled their members' milk on the three Northeast orders. Three of the cooperatives pooled milk on all three orders, 3 pooled milk on both the New England and New York-New Jersey orders, and 3 others pooled milk on both the New York-New Jersey and Middle Atlantic orders. The 9 cooperative associations that pooled milk on more than one of the Northeast orders represented 72.6 percent of cooperative milk pooled under the 3 orders and 55 percent of the total milk. Seventy-six percent of the milk pooled in the Northeast is cooperative association milk, with 80 percent of Federal Order 1 milk, 68.4 percent of Federal Order 2 milk, and 87 percent of Federal Order 4 milk pooled by cooperatives.

The 5 cooperatives that market milk only under Order 1 account for 26.7 percent of the milk marketed under that order by cooperative associations, and 21.3 percent of total milk marketed under Order 1. In Order 2, only 40.4 percent of cooperative association milk is marketed by the 59 co-ops that market milk only under Order 2. Milk marketed by these cooperatives represents 27.6 percent of the total milk pooled for December 1997. Three cooperative associations that marketed milk only on the Order 4 portion of the Northeast order marketed 8.2 percent of the milk marketed by cooperatives under this order. This amount of milk represented 7.2 percent of total milk pooled under Order 4 in December 1997.

Criteria for Consolidation.

The current New England, New York-New Jersey, and Middle Atlantic Federal milk order marketing areas (Orders 1, 2, and 4) should be consolidated because of the interrelationship between Orders 1 and 2 and between Orders 2 and 4 regarding route disposition and milk supply. Eighty percent of fluid milk disposition by handlers who would be fully regulated under the consolidated order is distributed within the consolidated marketing area. Fully regulated handlers account for 96 percent of the fluid milk products distributed within the consolidated marketing area. The utilization of the three markets is similar, and several cooperative associations market their members' milk in all three markets. The three markets are surrounded by State-regulated and unregulated areas to the west and south, the Atlantic ocean to the east, and Canada to the north. The adjoining Maine State milk order also serves as somewhat of a barrier to milk marketing in the northeast by limiting the association of non-Maine milk with the Maine pool.

The merger of these markets has been previously proposed by interested parties. A committee comprised chiefly of Northeast region cooperatives was formed over three years ago to study a merger of the three Federal orders. In support of a Northeast consolidation, the committee and other interested parties, including handlers and regulatory agencies, have noted: overlapping sales and procurement areas; a trend toward consolidation of cooperative processors and handlers in the region (leaving the remaining handlers with larger distributing areas and volumes); and regulation of plants by an order in which they are not located. The proponents of consolidation have indicated that consolidation would tend to solve some of the presently existing inequities and would lead to greater efficiency for handlers and order administration.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the order areas included in the Northeast marketing area that were considered included the addition of all currently unregulated and State-regulated area adjoining the Order 1, 2 and 4 marketing areas. These considerations included Pennsylvania Milk Marketing Board (PMMB) Areas 2, 3, and 6, some or all of the non-Federally regulated part of the State of Virginia, the unregulated areas of West Virginia and Maryland, the Western New York State order area and northern New York, northern Vermont and New Hampshire, pockets of unregulated area in Massachusetts, and the State of Maine. The proposed rule would have included in the consolidated Northeast marketing area the unregulated areas of Vermont, New Hampshire, Massachusetts, northern New York, and the Western New York State order area.

Nearly 1,150 comments that dealt to some extent with the consolidation of the Northeast order area were received in response to the proposed rule. Approximately 125 of these comments favored adoption of a national marketing area map that would include all U.S. territory in the 48 contiguous states in one of ten Federal order areas. Over 950 comments favored the expansion of the Northeast area into all of Pennsylvania, with more than 600 of these comments also favoring expansion into some combination of the unregulated areas of New York, Maryland, West

Virginia, Vermont, Massachusetts, New Hampshire, and Maine. More than 50 commenters urged the continued omission of Pennsylvania Milk Marketing Board Areas 2, 3, and 6 from any of the consolidated Federal order areas.

Most of the comments supporting expansion of the Northeast consolidated marketing area into non-federally regulated areas, especially Pennsylvania, argued that handlers in the non-federally regulated areas compete for milk supplies in the same milksheds and for fluid milk sales in the same markets as Federally-regulated handlers, with the surrounding federal order pool(s) carrying the necessary reserve milk supplies for the Class I sales distributed by non-regulated handlers. In addition, the comments argued that dairy farmers whose milk is priced in individual handler pools at primarily-fluid handlers under PMMB regulation have a competitive advantage over neighboring producers whose milk is included in marketwide pools that blend the cost of balancing milk supplies for fluid use with returns from the fluid market.

Nearly 60 comments, many from Pennsylvania dairy farmers, opposed expansion of the consolidated Northeast order area into Pennsylvania. Comments stated that the PMMB individual handler pools result in greater returns to producers, and producer returns would decline if handlers are required to pay the additional fluid value into the marketwide pool to subsidize cheese/powder plants.

As stated in the introduction to the consolidation discussion, consolidation of the existing orders does not necessitate expansion of the consolidated orders into currently-unregulated areas, especially if such expansion would result in the regulation of currently-unregulated handlers. Handlers located in PMMB areas 2, 3, and 6 are regulated under the State of Pennsylvania if they do not have enough sales in any Federal order area to meet an order’s pooling standards. These PMMB handlers are subject to minimum Class I pricing, sometimes at price levels that exceed those that would be established under Federal milk order regulation. When such plants do meet Federal order pooling standards, the State of Pennsylvania continues to enforce some of its regulations in addition to Federal order regulations. Inclusion of the Pennsylvania-regulated handlers in the consolidated marketing area would have little effect on handlers’ costs of Class I milk (or might reduce them), and would reduce returns to a few producers. In view of these considerations, it appears that stable and orderly marketing conditions can be maintained without extending full Federal regulation to State-regulated handlers.

There are significant differences between PMMB regulation and Federal order regulation that make it difficult to determine whether PMMB regulation gives State-regulated handlers a cost advantage over Federally-regulated plants distributing milk in the same areas. Some of the differences between PMMB and Federal order regulation are: 1) the number of classes of use (two versus four); 2) the location at which milk is priced (where it is distributed for sale to consumers versus where it is received from producers for processing); 3) individual handler pooling versus marketwide pooling; and 4) State regulatory treatment of milk sold in interstate commerce, including milk distributed outside the State and received from outside the State. In addition to creating different costs among similarly-located State- and Federally-regulated handlers, PMMB regulation may result in different costs between similarly-located PMMB-regulated handlers. However, since the main focus of this rulemaking process has been to consolidate existing Federal marketing areas, it would be more appropriate to consider this issue of marketing area expansion in Pennsylvania at a future time.

Maine has been and continues to be excluded from Federal order regulation. Three comments, two from New York State Dairy Foods and one from Crowley Foods, Inc., a fluid milk processor with distributing plants regulated under the New York-New Jersey and New England orders, suggested including Maine in the consolidated Northeast order on the basis that Maine regulation depends on balancing seasonal reserves on the New England order, and that the inclusion of Maine would allow similarly situated handlers equal opportunities. Five comments supported Maine’s exclusion from Federal orders because of its geographic separation from other areas, its long history of successful milk marketing regulation, and the limited impact of its pricing system on other regulated areas.

There appears to be little reason to add the State of Maine to the consolidated Northeast order area. Maine handlers with significant distribution in the Federal order areas can be and are pooled under Federal orders, limiting the extent of any competitive advantage. Inclusion of Maine-regulated handlers in the consolidated marketing area would have little effect on handlers’ costs of Class I milk (or might reduce them), and would reduce returns to a few producers. When not pooled under Federal orders, Maine handlers are subject to minimum prices paid for milk, and producers are assured minimum prices in payment for milk. There is no compelling reason to extend Federal order regulation to encompass this State-regulated marketing area.

The Western New York State order area, proposed to be added to the consolidated Northeast area because the persons regulated under that order had so requested, is not included. Upstate Milk Producers Cooperative (Upstate), the entity that would be most affected by the inclusion of this area, had supported its addition prior to issuance of the proposed rule. Because the proposed rule failed to include the State-regulated Pennsylvania areas in the consolidated Northeast area, however, Upstate determined that it would be faced with unfair competition from PMMB-regulated handlers and requested that the Western New York order area be left out of the consolidated Northeast order area.

All of the comments received that dealt with the inclusion of unregulated area in the States of Massachusetts, New Hampshire, and Vermont and the currently-unregulated northern area of New York State in the consolidated Northeast order area supported the addition of this area. According to the comments, inclusion of the currently unregulated areas will assure that distributing plant operators that currently are fully regulated would be placed on an equal competitive footing with handlers currently unregulated, while having no negative effect on the producers who would be affected. Inclusion of these currently unregulated areas would lighten handlers' reporting burden and the market administrator's administrative burden in keeping separate data on sales in this small unregulated area. The number of handlers who would be affected by these additions is minimal, and the additions would enhance the efficiency of Federal order administration while easing the reporting burden of regulated handlers.

In addition to the northern portions of New Hampshire, Vermont, and New York, and the small area of Massachusetts, the offshore Massachusetts counties of Dukes and Nantucket are added to the marketing area. The only entity currently operating in those counties (a producer-handler on Martha's Vineyard) would be exempt from the pooling and pricing provisions of the order by virtue of its status as a producer-handler and by having fewer than 150,000 pounds of route disposition per month. Mainland handlers distributing milk in these two counties would find their reporting burden eased if these counties become part of the marketing area.

APPALACHIAN.

The consolidated Appalachian marketing area is comprised of the current Carolina (Order 5) and Louisville-Lexington-Evansville (Order 46) marketing areas (less one Kentucky county that is included in the consolidated Southeast marketing area) as well as 64 counties and 2 cities formerly comprising the marketing area of the Tennessee Valley Federal Order (Order 11), terminated in October 1997, and currently-unregulated counties in Indiana and Kentucky. There are 297 counties and 2 cities in this consolidated marketing area. This area remains unchanged from the proposed rule.

Geography.

The Appalachian market is described geographically as follows: 7 unregulated Georgia counties (formerly part of Order 11), 20 Indiana counties (17 currently in Order 46 and 3 currently unregulated), 81 Kentucky counties (47 currently in Order 46, 16 formerly part of Order 11, and 18 currently unregulated), all North Carolina and South Carolina counties (100 and 46, respectively, and all currently in Order 5), 33 Tennessee counties (formerly part of Order 11), 8 counties and 2 cities in Virginia (formerly part of Order 11), and 2 West Virginia counties (formerly part of Order 11).

The consolidated Appalachian market reaches from the Atlantic coastline westward to southern Indiana and western Kentucky's border with Illinois. It is surrounded by Illinois on the west, Indiana, northeastern Kentucky, West Virginia and Virginia to the north, the Atlantic Ocean on the east, and Georgia, Alabama, western Tennessee and southwestern Kentucky to the south. Measuring the extreme dimensions, this market extends about 625 miles from its northwest corner in Indiana to its southeastern corner on the South Carolina-Georgia border, about 300 miles south-to-north from the South Carolina-Georgia border to the North Carolina-Virginia border, about 500 miles west-to-east from the Appalachian-Southeast markets' border in Tennessee to eastern North Carolina, and about 375 miles west-to-east from the Illinois-Indiana border to West Virginia and Virginia.

The Appalachian market is contiguous to 3 other consolidated marketing areas: the Southeast area to the southwest and south, the Central area to the west and the Mideast area to the north. Unregulated counties in West Virginia and State-regulated area in Virginia also border this market to the north. North and South Carolina have almost 500 miles of coastline on the Atlantic Ocean.

In terms of physical geography, similarities exist across the states or areas included in this market. Southern Indiana and central Kentucky are in the Interior Low Plateau region where valleys and steep hillsides are typical. In this market, the Appalachian or Cumberland and Alleghany Plateaus are found in West Virginia, Virginia, Kentucky, Tennessee and northwestern Georgia on the western edge of the Appalachian Mountains. Eastern Tennessee and both western North and South Carolina are in the Blue Ridge region, which is part of the Appalachian Mountain range. Moving eastward toward the Atlantic Ocean, the central part of the Carolinas are in the Piedmont Plateau, with the Atlantic Coastal Plain covering approximately the remaining eastern half of both these states.

Climatic types in this region vary somewhat. Humid subtropical climates are typical in most of North and South Carolina, as well as Virginia (which is affected by elevation differences) and southern Indiana. Humid continental climates are typical for northwestern Georgia, western North and South Carolina and southern West Virginia. Temperate climates are common in eastern Tennessee and central Kentucky.

Much of the consolidated Appalachian area does not provide a hospitable climate or topography for dairy farming. As an agricultural pursuit, dairy farming is far down the list in the area, accounting for an average of less than five percent of all receipts from farm commodities for the states involved. Crops such as tobacco, corn and soybeans, and other livestock commodities such as cattle/calves, turkeys and broiler chickens are more prevalent in this region.

Population.

According to July 1, 1997, population estimates, the total population in the Appalachian marketing area is 17.3 million. There are 24 Metropolitan Statistical Areas (MSAs) within the consolidated marketing area, containing 62.3 percent of the area's population. The largest 17 contain 57 percent of the population of the market. Charlotte, North Carolina, is the largest MSA in the marketing area with a population of 1.35 million. Charlotte is located near the South Carolina border about at the mid point of the North and South Carolina border, and about 250 miles west of the Atlantic coast. Less than 100 miles to the north lies the second-largest MSA of Greensboro-Winston-Salem-High Point, North Carolina, with a population of 1.15 million. About 50 miles east of Greensboro is the third-largest MSA, Raleigh-Durham-Chapel Hill, with 1.05 million people. The Raleigh MSA abuts the Greensboro MSA. An additional four North Carolina MSAs are among the largest of the 17 MSAs containing 57 percent of the population of the consolidated marketing area, for a combined population of one million. North Carolina is the most populous state in the consolidated marketing area with 7.4 million; over sixty percent of the population of North Carolina is located in these seven MSAs.

South Carolina is the second-most populous state in the consolidated area, with 3.8 million people. The Carolinas contain nearly two-thirds of the consolidated market's population. Greenville is the largest MSA in the state with a population of 905,000. Greenville is located in the northwest corner of the state. Charleston, the second-largest MSA in South Carolina, with over half a million people, is approximately at the midpoint of South Carolina's coast.

The Tennessee portion of the consolidated Appalachian market has a population of 2 million, with three MSA's that are included in the largest 17 in the market. These three areas contain 1.6 million, or just under 80 percent of the population in that part of Tennessee that is included in the Appalachian marketing area. The largest Tennessee MSA is Knoxville, which is in the eastern end of Tennessee near North Carolina. Six counties make up the Knoxville MSA with a combined population of 650,000. The Johnson City-Kingsport-Bristol area, the second-largest Tennessee MSA, is located in the northeastern tip of Tennessee along the Virginia and North Carolina border, and contains 460,000 people. Chattanooga, the third-largest MSA in Tennessee, is located on the Tennessee-Georgia border, and has a population of 447,000. The three MSAs run northeast to southwest just west of the North Carolina border.

The Kentucky portion of the consolidated Appalachian market contains 2.7 million people. There are two MSAs within the state that are included in the largest 17 in the market. The largest is Louisville, which lies on the border with Indiana and has a population of one million. Lexington, the second-largest Kentucky MSA, is located in the center of the state and has just under half a million people. Generally, the Kentucky counties in the Appalachian marketing area are not heavily populated. Only two have populations over 100,000. They are Jefferson county, where Louisville is located, and Fayette county, home to Lexington.

Indiana counties in the Appalachian market have a population of .8 million. Only Vanderburgh county has a population over 100,000. Evansville, the only MSA in the portion of Indiana included in the Appalachian market, is in Vanderburgh county. Evansville's MSA contains 289,000 and is located on the Indiana-Kentucky border, near the Illinois state line.

There are seven Georgia counties within the consolidated Appalachian marketing area, with a total population of .3 million. Three of them, Catoosa, Dade, and Walker, are part of the Chattanooga MSA. These three counties have a combined population of 124,000. The 10 Virginia counties in the Appalachian market have a population of .3 million. Three of the counties, Scott, Washington and Bristol City, are part of the Johnson City-Kingsport-Bristol MSA. The two West Virginia counties within the Appalachian market have a total population of .1 million.

Fluid Per Capita Consumption.

Estimates of fluid per capita consumption within the consolidated Appalachian marketing area vary from 15.8 per month for South Carolina to 20.4 pounds per month for Indiana. Use of 17 pounds per month as a weighted average results in an estimated 294 million pounds of fluid milk consumption for the Appalachian marketing area. Appalachian handlers' route disposition within the area during October 1997 totaled 283 million pounds, with another 21 million distributed by other order plants, partially regulated plants, and plants exempt both for reasons of both size and institutional status.

Milk Production.

Milk production data for the Appalachian consolidated order area has not been updated from December 1997 to October 1997 as have the data for most of the other consolidated order areas. The Tennessee Valley order was terminated October 1997. As a result, on the basis of 10 percent of receipts distributed within the Southeast order area, three of the Tennessee Valley-regulated handlers became pool plants under the Southeast order. Consequently, milk production data for the consolidated Appalachian and Southeast orders based on October 1997 pool data would not be representative of the milk that would be pooled on those consolidated orders. Available information indicates that the sources of milk for the consolidated Appalachian market have not changed in any significant way from the December 1996 data.

In December 1996, over 4,000 producers from 359 counties in 15 states pooled 443.3 million pounds of producer milk on Orders 5, 11 and 46. Approximately 71 percent of the milk pooled on the three orders was produced within the proposed consolidated marketing area.

North and South Carolina are the only States that are located entirely within the consolidated marketing area, and provided nearly all of their producers' milk to Order 5 (encompassing the entire States of North and South Carolina), with 103.7 and 34 million pounds, respectively. Neither of these states produces enough milk to meet even the fluid milk requirements of its population. Kentucky producers pooled 101.1 million pounds on the three orders, with 89 percent produced within the consolidated marketing area. Tennessee producers pooled 69.9 million pounds on the three orders, principally on Order 11, with 84 percent produced within the consolidated marketing area. Although Virginia is primarily outside the marketing area, producers from 40 Virginia counties supplied 68.5 million pounds of milk for the Tennessee Valley and Carolina order markets in December 1996. Georgia producers pooled 27.6 million pounds and Indiana producers pooled 21 million pounds in December, with the balance of the milk pooled on the three orders originating in Alabama, Connecticut, Illinois, Maryland, Massachusetts, New Mexico, Pennsylvania, and West Virginia.

Thirty-four counties each supplied over 3 million pounds of milk to the three markets consolidated in this area. One such county was located in New Mexico, and another in Pennsylvania. Eight were located in Kentucky, south and southwest of Lexington, and southeast of Louisville. Eleven were located in North Carolina west of the Raleigh-Durham area, with all but one located near Greensboro, Winston-Salem, Asheville, Charlotte or Durham. Of the two South Carolina counties that supplied over 3 million pounds each, one was located northwest of Columbia, and the other northwest of Charleston. The five Tennessee counties that pooled over 3 million pounds of milk on the three orders are located in northeast and southeast Tennessee; two in the Johnson City-Kingsport-Bristol area and three southwest of Knoxville. Only one of the six counties in Virginia that supplied over 3 million pounds to Orders 5 and 11 is located within the marketing area. Five of the six are located in southwest Virginia, with the other in the northwest part of the State.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route dispositions as in-area sales and updated for known plant closures through December 1998, 31 distributing plants would be expected to be associated with the Appalachian marketing area, including 25 fully regulated distributing plants (23 currently fully regulated, 1 currently partially regulated, and 1 currently unregulated), 2 partially regulated (both currently partially regulated), 3 exempt plants, on the basis of having less than 150,000 pounds of total route disposition per month (2 currently fully regulated and 1 currently unregulated), and 1 government agency plant (currently a government agency plant).

Four of the 31 distributing plants expected to be associated with the consolidated area are located in Virginia, with only one located within the marketing area. The plant in the marketing area currently is fully regulated and is expected to remain so, and one of the other Virginia plants, currently partially regulated, also is expected to be fully regulated. The other two Virginia plants, both currently partially regulated, are expected to be remain in that status. Since October 1997, 2 distributing plants in the marketing area have gone out of business.

Under the consolidated Appalachian order, there would be 18 distributing plants in the largest Appalachian MSAs having distributing plants. There would be 3 pool distributing plants in the Greensboro-Winston-Salem-High Point area. The Charleston area would have 2 pool distributing plants. The Johnson City-Kingsport-Bristol, Tennessee, area would have 2 pool distributing plants. The Greenville-Spartanburg-Anderson, South Carolina, area would have 2 pool distributing plants. The Knoxville area would have 1 pool distributing plant and 1 exempt plant, with less than 150,000 pounds of total route disposition per month. The Charlotte, Chattanooga, Lexington, Louisville, and Evansville areas would each have 1 pool distributing plant. The Raleigh-Durham area would have one government agency plant and one plant exempt on the basis of size.

Of the remaining 13 distributing plants associated with the market, one pool plant would be located in a North Carolina MSA and one pool plant would be located in a South Carolina MSA. The eleven remaining distributing plants, eight of which are expected to be pool plants, would not be located in MSAs. Three (2 pool, 1 exempt) would be in North Carolina, and 3 would be in Virginia (1 pool and 2 partially regulated). Three plants in Kentucky, 1 in Indiana, and 1 in Tennessee are expected to be pool plants.

The 25 plants expected to be fully regulated under the Appalachian order had distribution totaling 365 million pounds in October 1997, with 78 percent within the consolidated marketing area.

A South Carolina plant included above in the description of fully regulated distributing plants -- Superbrand Dairy Products, Inc., in Greenville (about 140 miles northeast of Atlanta)-- has a greater proportion of its sales in the Southeast market than in the Appalachian market. This plant currently is locked into regulation under the Carolina order based on its need to procure a milk supply in the Carolina order, although it has greater route disposition in the Southeast. This lock-in is included in the Appalachian order provisions.

Utilization.

As in the case of milk production data, October 1997 data for the three markets consolidated in the Appalachian order are not available because of the termination that month of the Tennessee Valley order. Instead of using October 1995 data from the proposed rule, however, September 1997 data is used as representative for this section.

According to September 1997 pool statistics for handlers who would be fully regulated under this Appalachian order, the Class I utilization percentages for the Carolina and Louisville-Lexington-Evansville markets and the former Tennessee Valley market were 86, 80, and 87 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Appalachian order, the potential impact of this decision on producers who supply the current market areas is estimated to be: Carolina, unchanged (from $13.59); Louisville-Lexington-Evansville, a 3-cent per cwt increase (from $12.73 to $12.76); and Tennessee Valley, a 6-cent per cwt decrease (from $13.38 to $13.32). The weighted average use value for the consolidated Appalachian order market is estimated to be $13.35 per cwt. For September 1997, combined Class I utilization for Orders 5, 11 and 46 was 85.0 percent based on 349.0 million pounds of producer milk used in Class I out of 410.4 million total producer milk pounds pooled.

Other Plants.

Also located within the consolidated Appalachian marketing area during May 1997 were 13 supply or manufacturing plants: 4 in Kentucky (1 in the Louisville area), 5 in North Carolina (1 in the Charlotte-Gastonia-Rock Hill area and one in the Greensboro-Winston-Salem-High Point area), 1 in Tennessee, and 3 nonpool cheese plants in Indiana (1 in the Lexington area and one in the Louisville area). Three of the 13 plants are pool plants, or have a “pool side.” Two of the three pool plants (one in Kentucky and the one in Tennessee) are “split plants,” that is, one side of a plant is a manufacturing facility, and the other side receives and ships Grade A milk, and accounting is done separately. Of these pool plants, the pool sides of the 2 split plants have no primary product, shipping only to distributing plants. The nonpool side of one of these plants manufactures cheese, while the nonpool side of the other manufactures powder. The other pool plant is a supply plant that manufactures primarily Class II products. Of the other nonpool plants in the Appalachian marketing area, 5 manufacture primarily cheese and 5 manufacture primarily Class II products.

Cooperative Associations.

Using September 1997 cooperative association information for the former Tennessee Valley order area and December 1997 information for the Carolina and Louisville-Lexington-Evansville (Order 46) orders, it can be estimated that approximately 75 percent of the milk in the consolidated Appalachian area was supplied by 12 cooperatives. Dairymen’s Marketing Cooperative, Inc., and cooperative associations that merged to form Dairy Farmers of America supplied nearly half of the milk pooled on all three markets during these months. Carolina-Virginia Milk Producers Association, Inc., supplied approximately 20 percent of the milk pooled on both the Carolina and Tennessee Valley markets.

Five cooperative associations supplied 16 percent of the milk pooled under the Carolina order in December 1997, but supplied no milk to the other two markets. Three of these cooperatives pooled no milk on any other Federal order market, while one also pooled milk on the two Ohio orders, the New York-New Jersey order, and the Middle Atlantic order. In addition to the Carolina order, the fifth cooperative pooled the milk of Texas producers on the Texas, Southern Illinois-Eastern Missouri, Chicago, and Southeast orders.

In addition to the 55 percent of the September 1997 Tennessee Valley milk supply from cooperative associations pooling milk on the other two Appalachian markets, one cooperative that also pooled milk on the Southeast order in December 1997 supplied approximately 15 percent of the milk pooled on the Tennessee Valley order.

Three cooperative associations that supplied less than 2 percent of the milk pooled under Order 46 did not supply milk to either the Carolina or Tennessee Valley markets.

Criteria for Consolidation.

Overlapping route disposition and procurement are the primary criteria on which this consolidation is based. There is a stronger relationship between the three marketing areas involved than between any one of them and any other marketing area on the basis of both criteria. Route dispositions within the Appalachian area by handlers who would be regulated under this order account for 93 percent of the total fluid milk products distributed in the area. The primary sources of the remaining 7 percent are four other consolidated order areas, with no more than 3 percent distributed by any of the four. Handlers to be regulated under the Appalachian order distributed nearly 80 percent of their route dispositions within the marketing area.

Over two-thirds of the milk supply for the Appalachian market is produced within the marketing area, with a large part of the rest of the milk supply coming from unregulated areas to the north (Virginia and Pennsylvania). The Appalachian order area supplies a significant minority of the milk supply for the Southeast market, but in October 1997 this amount was less than the amount supplied to the Southeast area from the Southwest area. In addition, a large proportion of the milk produced in the Appalachian order area that was pooled on the Southeast order in October 1997 was received at plants that formerly were pooled under the terminated Tennessee Valley order, and will be pooled under the consolidated Appalachian order. There is also common cooperative association affiliation between the markets.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives that were considered included combining all of the current Florida, Carolina, Tennessee Valley and Southeast order areas, consolidating the Southeast and proposed Appalachian areas, and including all of the State of Kentucky in one order, specifically the Southeast. These alternative consolidations were examined at length and were found to have less overlap in sales and procurement than the Appalachian marketing area.

Thirteen comments that pertained specifically to the proposed Appalachian area were filed by 12 commenters in response to the proposed rule. Six of these comments supported the consolidation of the Appalachian marketing area as described in the proposed rule, including comments filed by several affected dairy farmers, the North Carolina Department of Agriculture, the North Carolina Dairy Producers Association, and a comment filed on behalf of Piedmont Milk Sales, Inc., Hunter Farms, Land O'Sun Dairies and Milkco, Inc. This last comment stated that the Appalachian and Southeast areas should not be combined because a separate milk order area should exist between the consolidated Northeast and Southeast order areas. The comment argued that existence of the Appalachian area would be expected to result in blend price differences between and among the Northeast, Mideast, Appalachian, Southeast and Florida orders such that milk supplies will move South and East as needed.

Seven comments supported the combination of the Appalachian and Southeast areas, or at least the inclusion of more territory in the Appalachian area. The Kentucky Farm Bureau Federation urged that all Kentucky counties and the proposed Appalachian area be combined with the Southeast. The comment stated that this further consolidation would make milk utilization rates more similar across the order, would facilitate and encourage milk flow to deficit areas and minimize any negative price impacts on producers. According to the Carolina-Virginia Milk Producers Association, the existence of separate Southeast and Appalachian order areas could result in disorderly marketing conditions on the eastern side of the proposed Southeast order area. Comments filed by Trauth Dairy urged the inclusion of the northern areas of Kentucky, including the Newport, Kentucky, area containing Louis Trauth Dairy, Inc., in the proposed Appalachian area rather then in the proposed Mideast area.

A comment filed by DFA supported the inclusion of Charleston, West Virginia, and areas of West Virginia south of Charleston, as well as the Ohio counties surrounding Cincinnati and the northern counties of Kentucky, in the Appalachian market rather than the Mideast market to promote orderly marketing of milk. The DFA comment stated that adequate milk supplies do not exist in close proximity to processors in the greater Cincinnati, Ohio, and Charleston, West Virginia, markets, and that an economic incentive must be provided to assure a milk supply to those processors. A second DFA comment recommended that the Southeast and Appalachian order areas be combined because the primary supplemental milk supply for both areas is in more western states (Texas, New Mexico and Missouri). The comment stated that it is likely that these supplemental supplies would be likely to be associated with the Southeast order because of its greater proximity, and eastern Southeast milk would be “stair-stepped” across to the Appalachian order to reduce hauling costs. According to DFA, during the market’s flush production month, the Appalachian order would not bear the burden of surplus milk since the distant surplus milk would be associated with the Southeast order in addition to the eastern Southeast milk supplies that also would be associated with the Southeast order to avoid inefficient milk movements, resulting in a disproportionate burden of surplus milk pooled on the Southeast order.

For the month of October 1997, a month when some supplemental supplies usually are required for short markets, nearly one-quarter of the producer milk pooled on the current Southeast order originated in the States of Missouri, New Mexico, and Texas. For the same month, just over 1 percent of the producer milk pooled on the Louisville-Lexington-Evansville and Carolina orders was produced in those more western States. It is clear that the western milk is a much more important source of supply for the Southeast area than for the Appalachian area, and that the magnitude of this difference is an indication of how much these two consolidated markets differ. The ability to pool surplus milk on the Southeast order is directly related to the addition of the southern Missouri/northwest Arkansas area to the Southeast marketing area, an addition that was strongly urged by DFA. Concerns about the ability of handlers in the eastern part of the Southeast area to attract a supply of milk could be addressed more appropriately by the inclusion of transportation credits in the Southeast order than by consolidation with the Appalachian area.

A dairy farmer in West Virginia urged that the State of West Virginia be added to the Appalachian order area because milk usage for Class I milk and cost of production would then become similar to the other states in the Appalachian area. Another dairy farmer referred to a comment filed earlier to include Maryland in the Appalachian area instead of the Northeast.

As discussed in the proposed rule, consolidating the Carolina and Tennessee Valley markets with the Southeast does not represent the most appropriate consolidation option because of the minor degree of overlapping route disposition and producer milk between these areas. That conclusion continued to be supported by data gathered for distributing plants for October 1997.

The northern Kentucky/southern Ohio and West Virginia area was examined in painstaking detail with updated data to determine whether or where this area could be divided to reflect handlers' sales areas and supply procurement areas better than in the proposed rule. No support for such a modification to the proposed rule could be found. Only one Appalachian handler has significant route disposition within the Ohio Valley order area, while a very small volume of Class I sales moves from the Ohio Valley area into the Order 46 area. There is even less overlap between either West Virginia or Maryland and the Appalachian area, and no justification for changing the marketing area of either of these States.

FLORIDA.

The consolidated Florida marketing area is comprised of the three current Federal order marketing areas contained wholly in the state of Florida: Upper Florida (Order 6), Tampa Bay (Order 12) and Southeastern Florida (Order 13). There are 63 counties in this consolidated area (40 in Order 6, 13 in Order 12, and 10 in Order 13). This area remains unchanged from the proposed rule.

Geography.

The consolidated Florida marketing area is described geographically as all counties in the State of Florida, with the exception of the four westernmost counties in the Florida Panhandle. This marketing area is a large peninsula, ranging from about 140 miles in width in the north to about 50 miles in width in the south, that extends south from the southeast U.S. about 400 miles between the Atlantic Ocean and the Gulf of Mexico. Also included in the Florida market is approximately 150 miles of the Panhandle, a narrow strip of land extending west along the Gulf of Mexico from the northern part of the peninsula. The water surrounding most of Florida's peninsula constitutes a natural boundary, as east-to-west travel is limited.

Almost all of Florida has a humid subtropical climate. The southern end of the state and the islands south of the peninsula have a tropical wet and dry climate. In general, the state's climate can and does affect levels of milk production negatively. Seasonal variation in production for this market typically is greater than for most other U.S. regions. The importance of dairy farming as an agricultural pursuit in Florida is relatively minor (7 percent of total receipts from agricultural commodities), with several crops contributing more total receipts to the State's income. However, no livestock commodity is as important in Florida as dairy farming.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated Florida marketing area is 14.1 million. Ninety-three percent of the population of the marketing area is located in Metropolitan Statistical Areas (MSAs). The two largest MSAs are Miami-Fort Lauderdale (Miami) on the eastern side of the southern end of the peninsula, and Tampa-St. Petersburg-Clearwater (Tampa) midway on the western side of the peninsula. Broward and Dade Counties comprise the Miami population center (currently in Order 13) with a population of 3.5 million. The Tampa population center (currently in Order 12) is comprised of Hernando, Hillsborough, Pasco and Pinellas counties with a population of 2.2 million. The six counties in these two population centers represent about 41 percent of the total marketing area population.

Fluid Per Capita Consumption.

Florida customarily is considered a deficit milk production state. For much of the year, milk needs to be imported from other states in order to meet the demand for fluid consumption. Based on the population figure of 14.1 million and an estimated per capita fluid milk consumption rate of 17 pounds of fluid milk per month, total fluid milk consumption in the Florida marketing area is estimated at 239.7 million pounds per month.

During October 1997, 216 million pounds of milk were disposed of in the consolidated marketing area by all Florida distributing plants expected to be fully regulated under the Florida order. Other order plants had route disposition within Florida of 14.2 million pounds. Another 1.3 million pounds of milk was distributed within the consolidated area by partially regulated handlers, producer-handlers, and exempt plants. The discrepancy between the actual total route disposition of 231.5 million pounds and the estimated consumption level of 239.7 million pounds may be explained by the older than average population in Florida.

Milk Production.

In October 1997, 175.8 million pounds of milk produced in Florida were pooled in four Federal orders; 98.5 percent of this milk was pooled on the three current Florida orders. About 340 producers located in Florida (96 percent of all Florida producers having association with Federal orders) had producer milk pooled on at least one of the three Florida markets. A small number of Florida producers had producer milk associated with Order 7, while more than 100 Georgia producers had producer milk associated with the Florida markets. Additionally, 44.7 million pounds of Georgia milk was pooled on the three Florida markets; 89 percent of this milk went to Order 12.

There are 40 counties in Florida that pooled milk in at least one of the three current Florida orders. Eight of these counties produced 66.5 percent of the milk pooled.

Three counties (Gilchrist, Lafayette and Suwannee, about 75 miles west of Jacksonville) had 42.3 million pounds of producer milk. For these three counties, 72.6 percent of the October 1997 producer milk was pooled on the Tampa Bay order, which is located approximately 150 miles southeast of the counties.

Nearly 90 percent of Clay County’s producer milk was pooled in Order 6. This county is in the Jacksonville MSA, which is the largest population center in Order 6.

Twenty-two and one-half million pounds of producer milk came from Hillsborough, Highlands, and Manatee Counties, all part of the Order 12 market. However, 64 percent of this milk was pooled on Order 13, with the rest pooled on Order 12.

Okeechobee County, located in the Order 13 marketing area about 125 miles northwest of the Miami area, is by far the largest milk producing county in Florida. The county had 43.8 million pounds of producer milk in October 1997, almost all of which was pooled on Order 13.

Distributing Plants.

Using plant lists included in the proposed rule, with pooling standards adjusted to 25 percent of route dispositions as in-area sales, updated for known plant closures through December 1998, 12 plants would be expected to be fully regulated under the consolidated Florida market. Four of these plants are located in the Miami MSA and three in the Tampa MSA. Three plants are located in mid-Florida, one in the Orlando area and two in the Lakeland-Winter Haven area. Two more are located in northeast Florida: one in the Jacksonville area, and one in Daytona Beach. One plant in the Tampa MSA, currently fully regulated, would be exempt on the basis of size. One partially regulated plant in the

Jacksonville area would be expected to continue its partially regulated status, and one producer-handler is not located within an MSA.

Slightly less than two-thirds of the consolidated market’s population is contained in the MSAs where fully regulated plants are located.

Utilization.

According to October 1997 pool statistics for handlers who would be fully regulated under this Florida order, the Class I utilization percentages for the Upper Florida, Tampa Bay, and Southeastern Florida markets were 91, 88, and 94 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Florida order, the potential impact of this rule on producers who supply the current market areas is estimated to be: Upper Florida, a 4-cent per cwt decrease (from $15.39 to $15.35); Tampa Bay, a 8-cent per cwt increase (from $15.54 to $15.62); and Southeastern Florida, a 13-cent per cwt decrease (from $16.03 to $15.90). The weighted average use value for the consolidated Florida order market is estimated to be $15.69 per cwt. For October 1997, combined Class I utilization for the three Florida markets was 90.6 percent based on 197.5 million pounds of producer milk used in Class I out of 218.0 million total producer milk pounds.

Other Plants.

Also located within the Florida marketing area during May 1997 were four supply or manufacturing plants, three of which are not associated with the current markets’ pools. Three ice cream plants are located in the Tampa area and one pool supply plant is in the Jacksonville area.

Cooperative Associations.

In December 1997, three cooperatives marketed milk in the Florida markets, representing nearly 100 percent of the milk marketed. Effective October 1, 1998, Florida Dairy Farmers Association, which marketed milk under all three Florida orders, and Tampa Independent Dairy Farmers’ Association, Inc., which marketed milk only under the Tampa Bay order, merged to create Southeast Milk, Inc. The December 1997 production marketed by these two cooperatives in all three Florida orders comprised 93 percent of the producer milk associated with the three markets. Dairy Farmers of America, Inc. (DFA), members marketed nearly 7 percent of producer milk associated with the three Florida orders on the Tampa Bay and Southeastern Florida pools.

Criteria for Consolidation.

The consolidated Florida market should encompass the current marketing areas of the Upper Florida, Tampa Bay and Southeastern Florida Federal milk orders. Natural boundary limitations and overlapping sales and procurement areas among the three orders are major reasons for consolidation, as well as a measure of association evidenced by cooperative association proposals to consolidate these three marketing areas. Further, the cooperative associations in this area have worked together for a number of years to accommodate needed movements of milk between the three Florida Federal orders, and into and out of the area.

Discussion of Comments and Alternatives.

Prior to the issuance of the proposed rule, the inclusion of other Federal order marketing areas with the consolidated Florida area was considered because of the existence of some overlap of sales, procurement of producer milk, and dispositions of surplus milk. However, because of the closeness of the relationship between the current Florida markets and the lack of significant overlap of sales or production with other order areas no basis was seen for expanding the consolidation any further.

Only three comments were received that pertained specifically to the consolidated Florida area. These comments, filed by the three cooperative associations with membership in the consolidated Florida marketing area, supported the consolidation of the current three Florida order areas without any additional territory.

SOUTHEAST.

The consolidated Southeast marketing area is comprised of the current Southeast (Order 7) marketing area, portions of the current Southwest Plains (Order 106) marketing area in northwest Arkansas and southern Missouri, and six southeastern Missouri counties from the current Southern Illinois-Eastern Missouri (Order 32) marketing area. Also included are 16 currently unregulated Missouri counties, 21 currently unregulated Kentucky counties, and 1 Kentucky county that currently is part of the Louisville-Lexington-Evansville (Order 46) marketing area. There are 572 counties in this consolidated area. A partial county in Missouri that was proposed to be included in the Southeast area has been omitted.

Geography.

The Southeast market is described geographically as follows: all counties or parishes in Alabama, Arkansas, Louisiana, and Mississippi (67, 75, 64 and 82 counties, respectively), 4 in Florida, 152 in Georgia, 44 in Missouri, 62 in Tennessee and 22 in Kentucky (one --Logan County-- currently is in Order 46, and 21 currently are unregulated). Of these 21 counties, 14 were part of the former Paducah, Kentucky (Order 99) marketing area. Eleven Arkansas and 22 Missouri counties are part of the current Order 106 marketing area. Six Missouri counties are part of the current Order 32 marketing area. Sixteen southeastern Missouri counties currently are unregulated (4 of these were part of the former

Paducah Federal milk order). A partial Missouri county that was proposed to be part of the Southeast area is omitted for the purpose reducing the incidence of partially regulated counties.

The Southeast market spans the southeastern area of the United States from the Gulf of Mexico and the Alabama/Georgia-Florida border north to central Missouri, Kentucky, Tennessee and South Carolina, and from the Atlantic Ocean west to Texas, Oklahoma, and Kansas. Measuring the extreme dimensions, this market extends about 575 miles north to south from central Missouri to southern Louisiana and 750 miles west to east from Louisiana's border with Texas to the Atlantic Ocean coast in southern Georgia.

The Southeast marketing area is contiguous to 4 other consolidated marketing areas: Florida to the southeast, the Southwest to the west, the Central to the northwest and the Appalachian to the northeast and east. Georgia's coastline on the Atlantic Ocean is about 100 miles in length, while western Florida, Alabama, Mississippi and Louisiana extend about 600 miles along the Gulf of Mexico coastline. Also contiguous to the current Southeast market are currently unregulated counties in Texas, Missouri, Kentucky (and as of October 1, 1997, the Tennessee Valley [Order 11] marketing area). The consolidated marketing areas would encompass all of these counties in the Southwest, Central, Appalachian or Southeast marketing areas, with some currently-unregulated counties in central Missouri remaining unregulated under this proposal.

In terms of physical geography, the Southeast region is generally flat or gently rolling low-lying land. Relatively higher elevations which might potentially form natural barriers or obstruct easy transportation exist in northwest Arkansas and northeast Georgia.

Moving from the south to the north of the Southeast market, climates range from humid subtropical in coastal areas to warm and humid or humid continental to temperate in Tennessee and Kentucky. Warm, humid summers and mild winters are typical in the Southeast. These types of climates can severely limit the production level of dairy herds in the summer.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated Southeast marketing area is 26.9 million. The 42 Metropolitan Statistical Areas (MSAs) in the market account for 62.3 percent of the total marketing area population. Almost half of the Southeast population is located in the 17 most populous MSAs. Eight MSAs have populations greater than 500,000 each; their total population is about 36 percent of the Southeast population. Because of the large number of MSAs in the Southeast market and also because no large (i.e., greater than

500,000) population centers are added to this market, only those areas with populations greater than 500,000 are described in greater detail.

Over 25 percent of the Southeast market's population is located in Georgia, the most populous of the Southeast market states, with 7.2 million people. Almost half of Georgia's population is concentrated in the Atlanta MSA, located about 60 miles south of the Southeast-Appalachian marketing area boundary in the northwest portion of the state. Atlanta is the largest city in the Southeast market with a population of 3.6 million.

With 4.3 million people, Alabama is the Southeast market area's third most populous state. Birmingham and Mobile, the state's two largest MSA regions, are among the top eight in population in the Southeast. The Birmingham area has a population of about 900,000 and ranks 5th in size among all Southeast area MSAs. Birmingham is located about 150 miles west of Atlanta in north central Alabama. The Mobile area is a Gulf of Mexico port city in southwestern Alabama. With a population of 527,000, Mobile is the 8th largest population center in the Southeast market area.

Louisiana is the second most populated state in the Southeast market area with 4.4 million people. Two of the Southeast's 8 largest MSAs are located in Louisiana --New Orleans, the second largest MSA with 1.3 million people and Baton Rouge, the 6th largest MSA with almost .6 million people. New Orleans is located in the state's "toe" in southeastern Louisiana. Baton Rouge also is located in Louisiana's "toe," about 80 miles west of New Orleans.

Arkansas has a total population of 2.5 million -- 2 million from the current Southeast marketing area and an additional 500,000 from the Arkansas portion of the Southwest Plains marketing area. The Little Rock-North Little Rock, Arkansas (Little Rock) MSA, in the center of Arkansas, has the 7th largest population concentration in the Southeast market area with 552,000.

The portion of Tennessee in the Southeast marketing area is the fourth most populated with 3.4 million people and is home to the third and fourth largest MSAs in the Southeast. The Nashville area, with a population of 1.1 million, is located in central Tennessee. The Memphis, Tennessee/Arkansas/Mississippi MSA, also with a population of 1.1 million, is located near these three states' borders.

Other states or portions of states in the Southeast marketing area do not have MSAs with greater than 500,000 population. Mississippi, the Southeast's 5th most populous state, has a total population of 2.7 million. The Missouri, Florida and Kentucky counties in the Southeast market have populations of 1.3 million, 602,000 and 529,000, respectively.

Fluid Per Capita Consumption.

Fluid per capita consumption estimates vary throughout the Southeast market from a low of 16 pounds of fluid milk per month in Mississippi to a high of 19 pounds in Arkansas and Kentucky. Multiplying the individual states' consumption rates by their population results in an estimated fluid milk consumption rate of 468 million pounds of fluid milk per month for the Southeast marketing area.

Route distribution in the consolidated Southeast area by handlers expected to be regulated under the consolidated Southeast order (including the 3 Arkansas and Missouri plants) equaled 380 million pounds within the Southeast marketing area in October 1997. Other fluid milk dispositions in the consolidated Southeast marketing area came from plants expected to be regulated under other orders (66.7 million pounds) and from partially regulated, exempt and producer-handler plants (2 million pounds).

Milk Production.

Milk production data for the Southeast consolidated order area have not been updated from January 1997 to October 1997 as have the data for most of the other consolidated order areas. As a result of terminating the Tennessee Valley order as of October 1997, three of the Tennessee Valley-regulated handlers became pool plants under the Southeast order, on the basis of having at least 10% of their sales in the Southeast order marketing area. These handlers will become regulated under the consolidated Appalachian order when the consolidated orders become effective. Consequently, milk production data for the consolidated Southeast order area based on October 1997 pool data would not be representative of the consolidated Southeast market. Available information indicates that the sources of milk for the consolidated Southeast market have not changed significantly from the January 1997 data.

In January 1997, 4,180 producers from 388 counties pooled 477.4 million pounds of producer milk on the current Southeast market. Over 85 percent of the Southeast's producer milk came from Southeast market area counties. Of the 388 counties, 19 pooled over 5 million pounds each, accounting for 39 percent of Order 7's producer milk. Of these 19 counties, 2 Texas counties are located outside the Southeast marketing area. Because of the large number of counties, only the locations for those top 19 production counties are described in greater detail. However, the volume of producer milk, number of producers (farms) and number of counties is provided for each state within the market area.

Almost 73 million pounds of milk were pooled on the Southeast market from 581 producers in 28 Louisiana parishes in January 1997. Top production parishes are Tangipahoa, Washington and St.

Helena, all located in the state’s “toe,” north of New Orleans and northeast of Baton Rouge, each bordering Mississippi. Another high production area is centered on De Soto Parish in northwestern Louisiana. These four parishes account for over 62 million pounds of producer milk, with 76 percent coming from Tangipahoa and Washington parishes.

Almost 67 million pounds of milk were pooled on the Southeast market from 331 producers in 68 Georgia counties in January 1997. Of this volume, 64 million came from 312 producers in 64 Georgia counties in the Order 7 marketing area. The balance is associated with Georgia producers located in the marketing area of the former Order 11 (Tennessee Valley). Top production counties are Putnam, Morgan and Macon, which pooled 27 million pounds of producer milk on Order 7.

About 65 million pounds of milk were pooled on the Southeast market from 580 producers in 46 Tennessee counties in January 1997. Of this volume, 62 million came from 562 producers in 42 Tennessee counties in the Order 7 marketing area. The balance is associated with Tennessee producers located in the marketing area of the former Federal Order 11. Two high production counties in the state are Marshall and Lincoln, located in south central Tennessee. These counties contributed over 12 million pounds of producer milk to the Order 7 pool in January 1997.

About 61 million pounds of milk were pooled on the Southeast market from 443 producers in 48 Mississippi counties in January 1997. Top production counties are Walthall and Pike, in southern Mississippi on the state’s border with Louisiana. These two counties adjoin the heavy milk production area in Louisiana. The counties contributed 15 million pounds of producer milk to the Order 7 pool in January 1997.

About 32 million pounds of milk were pooled on the Southeast market from 408 producers in 19 Kentucky counties in January 1997. Additionally, 116 producers in 15 of these counties pooled almost 9 million pounds of producer milk on Orders 11 and 46 (Louisville-Lexington-Evansville). Two counties, Barren and Monroe, contributed over 13 million pounds of producer milk. These contiguous counties are in south central Kentucky about 80 miles northeast of Nashville, Tennessee.

Four Missouri counties -- Wright, Texas, Laclede and Howell--pooled 33 million pounds of producer milk on Order 7. All of these counties currently are located in the Order 106 (Southwest Plains) marketing area in southern Missouri.

Other Southeast marketing area states or areas contribute producer milk to the Southeast marketwide pool. About 37 million pounds of milk were pooled on the Southeast market from 205 producers in 51 Alabama counties, and 25 million pounds were pooled from 343 producers in 39 Arkansas counties. Sixteen

Florida producers from 6 counties (2 in the Southeast market area) pooled 3.5 million pounds on Order 7 in January 1997.

In January 1997, Order 7 producer milk also originated in Missouri counties not included in the Southeast marketing area, Texas, New Mexico, Indiana and Oklahoma. Large amounts of milk from Missouri (21 million pounds in addition to the 33 million described previously) and Texas (46 million pounds -- 20 million from Hopkins and Erath Counties) were associated with the Order 7 pool.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 48 distributing plants located in the consolidated Southeast marketing area would be expected to be associated with the Southeast market (including the added territory in northwestern Arkansas and southern Missouri). These plants include 36 fully regulated distributing plants, 3 of which are currently regulated under the Southwest Plains order and one of which is currently partially regulated. In addition, it is expected that 3 plants would be partially regulated (one of which currently is fully regulated and two of which are partially regulated), and 7 plants that are, and are expected to be, exempt -- 1 on the basis of size and 6 on the basis of institutional status. An additional currently regulated plant is expected to be exempt on the basis of institutional status. Of the 36 fully regulated plants, 16 are located in the largest eight MSA regions. One distributing plant located in the consolidated Appalachian marketing area that has more than half of its route disposition within the Southeast marketing area would be locked into regulation under the Appalachian order.

Since October 1997, it is known that 2 pool distributing plants have gone out of business. One of these plants was located in Louisiana and the other in Missouri

Of the 48 distributing plants, Georgia has 9; Louisiana, 10; Mississippi, 6; Alabama, 8; Arkansas, 6; Tennessee, 5; Missouri, 2; and Kentucky, 2. No distributing plants are located in the Florida counties included in the Southeast market area.

In Georgia, three pool distributing plants and one producer-handler are located in the Atlanta area, with 3 others elsewhere in the State. Georgia also has 1 partially regulated handler and 1 government agency (state prison) plant.

Eight of Louisiana’s 10 distributing plants currently are and would continue to be fully regulated (pool plants) in this consolidated marketing area. Four of these 8 are located in either the New Orleans or Baton Rouge areas (2 in each). Four other pool distributing plants are located in Louisiana. The remaining two plants are affiliated with educational institutions.

Four of Mississippi's 6 currently operational distributing plants would be fully regulated pool plants in the Southeast market. Two educational institutions also have plants.

Seven of Alabama's distributing plants are fully regulated. One is located in the Birmingham area and 2 are located in the Mobile area. Of the remaining four, 2 are in northern Alabama, one is in central Alabama, and one is in the state's southeastern corner.

Four of Arkansas' 6 currently operational distributing plants are fully regulated; two are in the Little Rock area, and the other 2 are located in northwest Arkansas. Also located within Arkansas are 2 exempt distributing plants – one on the basis of size and one that is a state prison plant. Four of Tennessee's 5 distributing plants are, and are expected to be, fully regulated. Three of the 4 are located in the Nashville area and one fully regulated plant and one partially regulated plant are located in the Memphis area.

Two distributing plants that would be fully regulated under the Southeast market are located in the currently unregulated Kentucky counties that are added to this marketing area. One is located in Fulton in the southwest corner of Kentucky on the Tennessee border, and the other about 30 miles east of Fulton.

Two Missouri distributing plants are located in the consolidated Southeast area. One is a pool plant located in Springfield, and the other a plant exempt on the basis of institutional status located just south of the Springfield MSA.

Utilization.

As in the case of milk production data, October 1997 data for the consolidated Southeast order are not used because of the termination that month of the Tennessee Valley order. Instead of using October 1995 data from the proposed rule, however, September 1997 data is used as representative for this section.

According to September 1997 pool statistics for handlers who are expected to be fully regulated under the Southeast order, the Class I utilization for the Southeast market was 84 percent. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Southeast order, the potential impact of this rule on producers who supply the current market area is estimated to be a 3-cent per hundredweight increase (from $13.60 to $13.63).

For September 1997, Class I utilization for the Southeast market was 83.9 percent based on 357.2 million pounds of producer milk used in Class I out of 426 million total producer milk pounds.

Other Plants.

Also located within the Southeast marketing area during May 1997 were 37 supply or manufacturing plants: 1 in Kentucky, 5 in Alabama (including 1 in the Birmingham area), 5 in Arkansas (including 1 in the Little Rock area), 7 in Georgia (including 4 in the Atlanta area), 3 in Louisiana (including 1 in the Baton Rouge area), 11 in Missouri, 2 in Mississippi, and 3 in Tennessee (including 1 each in the Memphis and Nashville areas). Eight of the 37 plants are pool plants. Of these pool plants, 2 primarily ship to distributing plants, 3 manufacture cheese, 1 manufactures Class II products, 1 manufactures powder and 1 primarily manufactures other products. Of the Southeast marketing area's 28 nonpool plants, 13 manufacture primarily Class II products, 3 manufacture cheese, 10 manufacture primarily other products, and 1 each manufacture primarily butter and cheese. One plant is a "split plant," with one side serving as a manufacturing facility primarily for Class II products, while the other side receives and ships Grade A milk.

Cooperative Associations.

In December 1997, thirteen cooperative associations, including 3 of those that merged to become Dairy Farmers of America (DFA), represented members marketing 73 percent of the milk pooled on the Southeast market.

This number of cooperative associations is more than twice the number (six) that pooled milk on the Southeast order in December 1995. Of those six, National Farmers Organization (NFO) ceased marketing milk in the Southeast. Milk Marketing, Inc., headquartered in Strongsville, Ohio, and one of the cooperatives that formed DFA, marketed a small amount of milk in the Southeast in December 1997, and two cooperatives began marketing milk after December 1995. In addition, 5 cooperative associations representing Texas and New Mexico producers pooled milk on the Southeast order in December 1997.

The DFA cooperatives represented 71 percent of co-op milk and 52 percent of the total milk supply pooled under the Southeast order during December 1997. For the same month, Carolina-Virginia Milk Producers Association, Inc., represented 9 percent of the milk pooled by cooperative associations; the two new cooperatives pooled 8 percent of co-op milk; and the five Texas/New Mexico cooperatives pooled 7 percent.

Criteria for Consolidation.

Retention of the Southeast marketing area as a single area is based on overlapping route dispositions within the marketing area to a greater extent than with other marketing areas. Procurement of producer milk also overlaps between states within the market. There is also a seasonal need for milk from outside the marketing area. However, the amount of supplemental seasonal supplies is not as great as the amount of milk that is actually pooled under the order from distant areas. There is common cooperative association membership within the marketing area.

As noted in the proposed rule, the addition of northwest Arkansas and southern Missouri to the marketing area is primarily in response to comments received during the public comment period.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives that were considered included incorporating all of the State of Kentucky in the Southeast area, dividing the Southeast area on the state line between Mississippi and Alabama, combining the Florida, Carolina, Tennessee Valley and Southeast order areas, and adding the eastern part of the Texas order area to the Southeast. These alternatives were analyzed in detail for the proposed rule and determined not to result in a configuration of marketing areas as appropriate as those proposed for reasons discussed in the proposed rule.

Seven comments filed in response to the proposed rule specifically addressed the consolidated Southeast marketing area. A comment filed on behalf of Piedmont Milk Sales, Inc., Hunter Farms, Land O'Sun, and Milkco, Inc., supported and endorsed the portion of the proposed rule that would maintain separate order areas for the Southeast and Appalachian areas. Comments filed by DFA and by Carolina-Virginia Milk Producers Association favored combining the proposed Southeast and Appalachian order areas. In addition, the Kentucky Farm Bureau Federation urged that all Kentucky counties and the proposed Appalachian order be combined with the Southeast. The comment stated that such a configuration would make milk utilization rates more similar across the order, would facilitate and encourage milk to flow to deficit areas and minimize any negative price impacts on producers. These comments were considered in the discussion of comments and alternatives under the Appalachian area.

Comments from Carolina-Virginia Milk Producers Association and Missouri Farm Bureau Federation support the inclusion, as proposed, of southern Missouri/northwest Arkansas in the Southeast marketing area. The Carolina-Virginia Milk Producers' comment noted that this area is a crucial part of the supply area for the southeast region, and that the exclusion of the area from the consolidated Southeast order area could have a detrimental impact on the over-order premium structure of that area. The comment stated that the correction of producer blend prices and creation of a unified marketing area in that part of the southeast region is justified. With regard to southern Missouri, a representative of the Subcommittee on Livestock of the U.S. House of Representatives Committee on Agriculture supported adding southeastern Missouri to the Southeast order area, as proposed. A comment filed by Barber Pure Milk Company opposed adding northwest

Arkansas/southern Missouri to the Southeast marketing area on the basis of the minimal overlapping route disposition and potential of diluting the Southeast pool.

A substantial share of the milk production from the portions of Missouri and Arkansas that are added to the Southeast marketing area is pooled under the Southeast order, and this milk represents a substantial share of the total milk production that is pooled under the Southeast market.

Route disposition by distributing plants located within this area would become in-area dispositions from Southeast pool distributing plants. More than half of the dispositions from the three plants that would become Southeast pool distributing plants would be within the consolidated Southeast marketing area.

MIDEAST

The consolidated Mideast marketing area is comprised of the current Ohio Valley (Order 33), Eastern Ohio-Western Pennsylvania (Order 36), Southern Michigan (Order 40), part of the Michigan Upper Peninsula (Order 44), and Indiana (Order 49) marketing areas plus 6 currently unregulated Indiana counties, 2 whole and 3 partial currently unregulated Michigan counties, and 3 whole and 2 partial currently unregulated Ohio counties. There would be 301 whole and 1 partial county in this consolidated area. Three whole and one partial currently-unregulated Ohio counties that were proposed to be part of the Mideast area are not included.

Geography.

The Mideast market is described geographically as follows:

Indiana - 72 counties (64 currently in Order 49, 2 currently in Order 33, and 6 currently unregulated on the western edge of the State, just south of the northwest corner)

Kentucky - 18 counties (all currently in Order 33)

Michigan - 77 counties. Two whole and 3 partial counties currently are unregulated. The rest of the area currently is included in Orders 40, 44, 49, and 33. Of the total 83 Michigan counties, only 6 in the western end of the Upper Peninsula are not included in the consolidated Mideast marketing area.

Ohio - 84 whole and 1 partial county. Three whole and 2 partial counties to be included currently are unregulated. All of the State currently is included in Orders 33 and 36, except for 3 partial and 6 whole counties.

Pennsylvania - 12 whole and 2 partial counties, currently in the Order 36 area.

West Virginia - 37 counties; 20 currently in Order 33, 17 currently in Order 36.

The consolidated Mideast marketing area lies directly south of the Great Lakes, with the State of Michigan enclosed on the east and west sides by Lakes Huron and Michigan. On the eastern border of the marketing area, between the Mideast and Northeast marketing areas, is Pennsylvania State-regulated territory and the Allegheny and Appalachian Mountains. On the northeast border is the Western New York State order area.

The east-to-west distance across the consolidated marketing area is approximately 450 miles, from locations on the eastern edge of the area in western Pennsylvania to the border of Indiana and Illinois. Northwest to southeast, from Marquette, Michigan, in the Upper Peninsula to the northeast area of Kentucky in the marketing area is just over 800 miles. From the northern tip of lower Michigan to southern Indiana the more direct north-south distance is 530 miles.

The consolidated Mideast marketing area is contiguous to 3 other consolidated marketing areas. The consolidated Central marketing area would provide the western border of the Mideast marketing area along the Indiana-Illinois border, and the consolidated Appalachian area would provide the southern boundary. The western end of Michigan's Upper Peninsula, part of the consolidated Upper Midwest area, would adjoin the Mideast portion of the Upper Peninsula.

In terms of physical geography, most of the consolidated Mideast marketing area is at low elevations, and relatively flat. The climate and topography are favorable to milk production, with dairy being the number one agricultural commodity in terms of financial receipts in the State of Michigan in 1996. Dairy also ranks high in terms of financial receipts in the rest of the area; 3rd in Ohio and West Virginia, and 5th in Indiana.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 31 million. The 34 MSAs in the consolidated Mideast marketing area include 79.8 percent of the area's population. Over 55 percent of the area's population is contained in the 8 most populous MSAs, which each have over 950,000 people. Two-thirds of the population is located in the states of Michigan and Ohio.

The Mideast area's largest and 7th largest of the 34 MSAs are located in Michigan. Detroit-Ann Arbor-Flint, with 5.4 million population, is the largest MSA, and is located in the southeast portion of the state between Lakes Huron and Erie. Grand Rapids-Muskegon-Holland is the 7th largest Mideast MSA, is located approximately 150 miles west-northwest of Detroit, and has a population of 1 million. These two MSAs contain two-thirds of the population of Michigan. There are 5 other MSAs in Michigan. Two have approximately 450,000 population each, one has approximately 400,000 population, and the other two average approximately 160,000 apiece. Eighty-four percent of the population of Michigan is located in these 7 MSAs, all in the lower half of southern

Michigan.

Four of the 8 largest Mideast MSAs are located in the State of Ohio. These are: (1) Cleveland-Akron, the second-largest, with a population of 2.9 million, located on Lake Erie in northwestern Ohio; (2) Cincinnati-Hamilton, OH-KY-IN, the 4th largest, with a population of 1.9 million, located in the southwest corner of Ohio; (3) Columbus, the 6th largest, with a population of 1.5 million, located approximately midway between Cincinnati and Cleveland; and (4) Dayton, the 8th largest, with a population of .95 million.

There are 6 additional MSAs in Ohio, 2 with populations of approximately .6 million each, 1 with a population of .4 million, and 3 that average just over 150,000 each. Eighty-two percent of the population of Ohio is located in MSAs, most in the northern part of the State.

The third-largest MSA in the Mideast area is Pittsburgh, Pennsylvania, with a population of 2.4 million. Pittsburgh is 127 miles southeast of Cleveland. There are two smaller MSAs in the Pennsylvania portion of the consolidated Mideast marketing area, having an average population of about 200,000 each. Eighty-seven percent of the population of the Pennsylvania portion of the Mideast area is located in MSAs.

Indianapolis, Indiana, is the 5th largest MSA in the consolidated Mideast marketing area, with a population of 1.5 million. Indiana contains 9 additional MSAs, 2 with populations of .5 and .6 million, and 7 others that average 155,000 population. All but 2 of the 9 smaller MSAs are located north of Indianapolis. Seventy-four percent of the population of the portion of Indiana that is in the consolidated Mideast area is located in MSAs.

The portion of West Virginia that is within the consolidated Mideast area contains 4 MSAs, 3 of which are located on the West Virginia-Ohio border, along the Ohio River. The population of these MSAs averages just over 200,000. Forty-five percent of the population of the West Virginia portion of the consolidated Mideast area is located in MSAs.

Fluid Per Capita Consumption.

Estimates of fluid per capita consumption within the consolidated Mideast area vary from 18.75 pounds per month for Michigan to 20.4 pounds per month for Indiana. Use of 19 pounds per month as a weighted average results in an estimated 589 million pounds of fluid milk consumption for the Mideast marketing area. Mideast handlers’ route disposition within the area during October 1997 totaled 544 million pounds, with another 36 million distributed by 23 handlers fully regulated under other orders. An additional 4.5 million pounds was distributed by partially regulated handlers, producer-handlers, and handlers that would be exempt under this rule on the basis of each having less than 150,000 pounds of route disposition per month.

Milk Production.

In October 1997, nearly 11,000 producers from 335 counties in 12 states pooled 1 billion pounds of milk on Federal Orders 33, 36, 40, 44 and 49. Over 90 percent of this producer milk came from Mideast marketing area counties. The States of Indiana, Michigan, Ohio and Pennsylvania supplied 95 percent of the milk (13%, 39.6%, 30.6% and 11.9%, respectively), with 90 percent coming from counties that would be in the consolidated Mideast area. Just over two-thirds of the milk pooled under these orders was produced in Michigan and Ohio counties located within the consolidated marketing area.

Other states pooling milk on the orders consolidated in the Mideast area were Illinois (0.5%), Iowa (0.1%), Kentucky (0.1%), Maryland (0.4%), New York (2.7%), Virginia (0.1%), West Virginia (1.0%), and Wisconsin (0.1%). These states contributed a total of 4.9 percent of the milk pooled on the 5 orders.

Sixty-two of the counties that had production pooled under the five current orders supplied more than 5 million pounds of milk each during October 1997. Six of the counties were in northern and northeast Indiana, over 100 miles from Indianapolis; 11 were in western Pennsylvania - 7 of them within 100 miles of Pittsburgh, and the others, including those with the most production (10-22 million pounds), in the northwest corner of the state, within 100 miles of Cleveland, Ohio. Twenty-eight Michigan counties pooled more than 5 million pounds each under the 5 orders, including 14 counties with more than 10 million pounds and 4 counties with more than 20 million pounds. All of these counties are located within 110 miles of Detroit or Grand Rapids, the two largest MSAs in Michigan. The heaviest milk production area of Ohio is the northeast quadrant of the State and within 50 miles of the Akron-Cleveland MSA, including 5 counties supplying over 10 million pounds each during October 1997, and 1 county pooling over 40 million pounds. A smaller production area in Ohio is located in the central portion of the western edge of the State within 80 miles of the Dayton MSA, and includes two counties with over 10 million pounds production and 1 county with over 20 million. The only population centers of the marketing area that do not appear to have adequate supplies of nearby milk are Indianapolis and Cincinnati, in the southern portion of the area.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through January 1998, 72 distributing plants would be expected to be associated with the Mideast marketing area, including 51 fully regulated distributing plants (all currently fully regulated), 4 partially regulated (all currently partially regulated), 4 exempt plants that would have less than 150,000 pounds of total route disposition per month (all currently fully regulated), and 13 producer-handlers (all currently producer-handlers). Since October 1997, 5 distributing plants (1 fully regulated plant in Indiana and 1 in Michigan; 2 partially regulated plants in Pennsylvania; and a producer-handler in Pennsylvania), have gone out of business.

There would be 40 distributing plants in the 8 Mideast MSA's that each have over a million people (including Dayton-Springfield which has .95 million). Twenty-seven of these plants would be pool plants -- 5 in the Pittsburgh area, 6 in the Detroit area, 4 in the Cleveland area, 3 each in the Grand Rapids, Indianapolis and Cincinnati areas, 2 in Columbus and 1 in Dayton. Nine of the plants in the large MSA areas would be producer-handlers, 3 would be exempt on the basis of having less than 150,000 pounds of milk per month in Class I route dispositions, and 1 would be partially regulated.

Of the remaining 29 distributing plants located in the marketing area, 18 would be located in other MSA's as follows: 5 pool plants and 1 producer-handler in Ohio; 4 pool plants in Indiana; 4 pool plants in Michigan; 2 pool plants in Pennsylvania; 1 pool plant in Kentucky; and 1 pool plant in West Virginia. The ten remaining distributing plants located in the marketing area would not be located in MSA's. Three of these pool plants and 2 producer-handlers would be located in Michigan; 2 pool plants and 1 plant exempt on the basis of size would be located in Ohio; 2 pool plants would be located in Indiana; and 1 producer-handler would be located in West Virginia.

There are 3 distributing plants that would be outside the marketing area. These would be 1 partially regulated plant in Pennsylvania, and 1 in Virginia. In addition, a small pocket of unregulated area within Ohio would contain one partially regulated plant.

The in-area route disposition standard, proposed to be 30 percent of route dispositions, will instead be 25 percent -- the same percentage as in other consolidated orders. This percentage should not result in the full regulation of any handler not currently fully regulated unless they increase sales in the marketing area.

Utilization.

According to October 1997 pool statistics for handlers who would be fully regulated under this Mideast order, the Class I utilization percentages for the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, Michigan Upper Peninsula, and Indiana markets were 58, 58, 55, 89, and 70 percent, respectively.

Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Mideast order, the potential impact of this consolidation on producers who supply the current market areas is estimated to be: Ohio Valley, a 4-cent per cwt increase (from $13.46 to $13.50); Eastern Ohio-Western Pennsylvania, a 4-cent per cwt decrease (from $13.51 to $13.47); Southern Michigan, a 6-cent per cwt increase (from $13.27 to $13.33); Michigan Upper Peninsula, a 25-cent per cwt decrease (from $13.34 to $13.09); and Indiana, a 11-cent per cwt decrease (from $13.52 to $13.41). The large decrease for Michigan Upper Peninsula is a result of changing from its current individual handler pool provisions to a marketwide pool (very little reserve milk is pooled under Order 44 -- instead, it is pooled on the Southern Michigan order). For October 1997, combined Class I utilization for Orders 33, 36, 40, 44 and 49 was 58.7 percent based on 601.6 million pounds of producer milk used in Class I out of 1.025 billion total producer milk pounds pooled. The weighted average use value for the consolidated Mideast market is estimated to be $13.42 per hundredweight.

The Mideast is one of two consolidated marketing areas that has a significantly higher-than-average percentage of its milk used in Class II. Currently, the Southern Michigan, Ohio Valley and Indiana markets have Class II utilization over 20 percent. When the markets are combined the average for the consolidated market will be just under 20 percent.

Other Plants.

Also located within the Mideast marketing area during May 1997 were 59 supply or manufacturing plants: 1 in Charleston, West Virginia, 4 in Pennsylvania, 18 in Michigan, 9 in Indiana and 27 in Ohio. Nine of the 59 plants are pool plants. Of these pool plants, 6 are supply plants -- 1 manufactures primarily Class II products, 3 manufacture primarily powder, and 2 have no primary product, only shipping to distributing plants. Three pool plants are manufacturing plants, manufacturing primarily cheese. Of the 50 nonpool plants in the Mideast marketing area, one is a supply plant that manufactures primarily cheese. The other 49 nonpool plants are manufacturing plants. In this area of high Class II use, 28 of the nonpool plants manufacture primarily Class II products. In addition, 1 manufactures primarily butter, 1 manufactures primarily powder, 27 manufacture primarily cheese, and 2 manufacture primarily other products.

There are also two manufacturing plants in the currently-unregulated area of Ohio – a nonpool plant that manufactures primarily Class II products in the unregulated county of Erie, Ohio and a nonpool plant that manufactures primarily cheese in the unregulated area of Sandusky, Ohio.

Cooperative Associations.

In December 1997, 20 cooperative associations pooled member milk under the 5 orders to be consolidated (considering Milk Marketing, Inc., and Mid-America Dairymen, Inc., as one entity - DFA). Two of the cooperatives pooled milk on the four principal orders, 3 cooperatives had member milk pooled on 3 of the principal orders, 3 cooperatives pooled milk on 2 of the principal orders, and 12 of the cooperatives pooled milk on only one of the orders. The percentage of cooperative member milk pooled on each of the orders varied from 44 percent under Order 36 to 86.5 percent under Order 40. Of the total milk pooled on the 5 orders in December 1997, 68 percent was marketed by cooperative associations.

Criteria for Consolidation.

Overlapping route disposition, overlapping production areas, natural boundaries, and multiple component pricing are all criteria that support the consolidation of these current order areas into a consolidated Mideast marketing area. Handlers who would be fully regulated under the consolidated order distribute approximately 90 percent of their route dispositions within the consolidated marketing area, and 93 percent of the milk distributed within the marketing area is from handlers who would be regulated under the order.

Many of the counties from which milk was pooled on the individual orders supplied milk to three or four of those orders. For instance, milk from a number of the same Michigan counties was pooled on the Ohio Valley, Indiana and Southern Michigan orders; milk from several of the same Indiana counties was pooled on the Ohio Valley, Southern Michigan and Indiana counties; and milk from some of the same Ohio counties was pooled on the Ohio Valley, Indiana, and Southern Michigan orders.

The Great Lakes serve as natural boundaries on the northern edge of the area and on the eastern and western sides of Michigan, as do the mountains in central Pennsylvania. All of the orders involved in the consolidated Mideast area contain multiple component pricing provisions. Instead of the Southern Michigan component pricing plan, proposed for the consolidated Mideast order in the proposed rule, the same component pricing provisions adopted for the other consolidated orders have been incorporated in the Mideast order.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the Ohio Valley, Eastern Ohio-Western Pennsylvania, Southern Michigan, Indiana, and partial Michigan Upper Peninsula marketing areas that were considered included the addition of Pennsylvania Milk Marketing Board (PMMB) Area 6 to the consolidated Mideast area, with some consideration being given to the addition of currently-unregulated areas of Maryland and West Virginia, and moving the southern part of Ohio and part of West Virginia to the Appalachian order area.

Ten comments that pertained specifically to the consolidated Mideast marketing area were filed by 8 commenters in response to the proposed rule. Three of the comments, from Michigan Milk Producers Association, United Dairy, Inc., and DFA, plus a very large number of comments that did not specifically mention the Mideast area, addressed the inclusion of unregulated areas in consolidated Federal order areas. The DFA comment included the signatures of 600 producers to a "Petition to Eliminate all Unregulated Market Areas in Pennsylvania." Although the large number of comments that did not specifically mention the Mideast area were unclear about exactly what additional area should be added to the marketing area, they appeared to favor the addition of PMMB Area 6, with perhaps some western Maryland and West Virginia territory, to the eastern edge of the Mideast area.

As stated in the introduction to the consolidation discussion, consolidation of the existing orders does not necessitate expansion of the consolidated orders into currently-unregulated areas, especially if such expansion would result in the regulation of currently-unregulated handlers. Therefore, PMMB Area 6 and the unregulated portions of Maryland and West Virginia should not be added to the consolidated Mideast order area.

Two comments from DFA recommended including Charleston, West Virginia, and areas of West Virginia south of Charleston, as well as the Ohio counties surrounding Cincinnati and the northern counties of Kentucky, in the Appalachian market to help provide an economic incentive through the expected higher blend prices to producers to supply milk to the plants in that area. A comment by Trauth Dairy in Newport, Kentucky, also urged the inclusion of the northern areas of Kentucky in the Appalachian area instead of the Mideast area. These comments are addressed in the description of comments and alternatives considered for the Appalachian order area.

Schneider's Dairy suggested that a pass-through provision similar to that of the current New York-New Jersey order be incorporated in the Mideast order to assure that regulated handlers distributing fluid milk products in unregulated areas where they compete with unregulated handlers are not disadvantaged. As discussed in the section of this decision dealing with Northeast regional issues, Class I prices are determined by the need to attract milk supplies to the location of the processing plant, and not by where the fluid products are distributed. Therefore, a pass-through provision is not incorporated in either the Northeast order or this order.

Independent Cooperative Milk Producers Association and

Schneider’s Dairy supported the consolidation of order areas to form the Mideast area as proposed.

UPPER MIDWEST.

The consolidated Upper Midwest marketing area is comprised of the current Upper Midwest (Order 68) and Chicago Regional (Order 30) marketing areas, with the addition of the western portion of the Michigan Upper Peninsula (Order 44) marketing area. There are 204 counties in this consolidated area. One partial Illinois county proposed to be part of the Central order area has been added to this area, and another partial Illinois county proposed to be part of this area has been changed to the Central order area.

Geography.

The consolidated Upper Midwest marketing area is described geographically as follows: 15 counties in Illinois (all currently in Order 30), 6 counties in Iowa (all currently in Order 68), 6 counties in Michigan (all currently in Zones I and IA of Order 44), 83 counties in Minnesota (all currently in Order 68), 16 counties in North Dakota (all currently in Order 68), 8 counties in South Dakota (all currently in Order 68), and 70 counties in Wisconsin (43 currently in Order 30, 20 currently in Order 68, and 7 currently unregulated). This market is about 600 miles east to west and about the same distance north to south.

The area described above is contiguous to the consolidated Central market to the south, a small corner of the consolidated Mideast market to the southeast, and the eastern portion of Michigan’s Upper Peninsula, also part of the consolidated Mideast market, to the northeast. North of the Upper Midwest market is Lake Superior and the Canadian border, and west of the market is a large sparsely-populated and unregulated area. Most of the eastern border of the marketing area is Lake Michigan.

The consolidated Upper Midwest marketing area is generally low-lying, with some local differences in elevation in Wisconsin and the upper peninsula of Michigan. Natural vegetation in the western part of the area is tall-grass prairie, with the eastern two-thirds of the northern portion being broadleaf forest, coniferous forest, and mixed broadleaf and coniferous forest. Annual precipitation averages 30-35 inches per year. Most of the area experiences summer temperatures that average about 75 degrees; the northern and western portions average winter temperatures are in the low ‘teens, while the southern and more eastern portions experience average winter temperatures in the 20's. The far western part of the market predominantly grows mixed field crops, with cattle and soybeans more to the southwest. Both Minnesota and Wisconsin are included in the top five milk-producing states, and dairy is the number 1 agricultural enterprise in Wisconsin, generating over half of the State's income derived from agricultural commodities.

Population.

According to July 1, 1997, population estimates, the total population of the consolidated Upper Midwest marketing area is approximately 18.5 million. Using Metropolitan Statistical Areas (MSAs), there are 3 population centers over 1 million. The Chicago-Gary-Kenosha area, primarily in northeastern Illinois, is the largest, with a 7.9 million population in the marketing area. The Minneapolis-St. Paul area, located mostly in Minnesota, is next with 2.8 million; and the third-largest MSA is Milwaukee-Racine, Wisconsin, with a population of 1.6 million. The Chicago area is located in the southeast corner of the marketing area, on the west side of the southern end of Lake Michigan, with Milwaukee approximately 85 miles north, also along Lake Michigan. Minneapolis is located 400 miles northwest of Chicago, along the Minnesota-Wisconsin border.

Approximately two-thirds of the population of the consolidated marketing area is within the three largest MSAs, with 81 percent of the population contained within the area's 17 MSA's (with the 14 smaller MSAs averaging 196,000 population).

Sixty percent of the population of the market is concentrated in the Illinois and southeast Wisconsin portion of the marketing area. In Wisconsin, nearly 90 percent of the population is located in the southern two-thirds of the state, and in Minnesota 85 percent of the population is in the southern half of the state.

Fluid Per Capita Consumption.

Based on the population figure of 18.5 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the consolidated Upper Midwest marketing area is estimated at 370 million pounds per month. Plants that would be fully regulated distributing plants under the Upper Midwest order had route disposition within the market of 343 million pounds in October 1997. Handlers fully regulated under other Federal orders distributed 43 million pounds in the consolidated marketing area during October 1997, while partially regulated plants distributed 1.7 million pounds. Producer-handlers and exempt plants operating in the combined marketing areas during this month had a combined route disposition of less than .5 million pounds.

Milk Production.

In October 1997, 2.4 billion pounds of milk were associated with the Chicago Regional and Upper Midwest markets, but only 1.6 billion pounds of milk were pooled because of class price relationships. The 2.4 billion pounds were produced by 27,250 producers located in 13 states from Tennessee to Minnesota, and from New Mexico to Michigan. However, over 93 percent of the producer milk was produced within the consolidated marketing area, and 91.4 percent was produced within the states of Wisconsin and Minnesota. As with population density and milk plant density, most milk production in Minnesota and Wisconsin occurs in the southern parts of these states. Over 85 percent of Wisconsin milk associated with the combined Chicago Regional-Upper Midwest orders in October 1997 was produced in the southern two-thirds of the State, while 84 percent of the Minnesota milk associated with the two orders was produced in the southern half of Minnesota.

Fifty-two counties, 10 in Iowa, 15 in Minnesota, and 27 in Wisconsin supplied milk to both the current Chicago Regional and Upper Midwest orders during October 1997. The largest part of the common production area is in Wisconsin, where 27 counties supply 25 percent of the milk associated with Order 30, and 30 percent of the milk associated with Order 68. When data for the 52 counties is combined, 26 percent of the Chicago Regional market and 42 percent of the Upper Midwest market is supplied by this common production area.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 35 distributing plants would be expected to be associated with the Upper Midwest marketing area, including 27 fully regulated distributing plants (2 currently partially regulated and 25 currently pool plants), 4 partially regulated (3 currently partially regulated and 1 currently fully regulated), 1 producer-handler, and 3 exempt plants, based on distributing less than 150,000 pounds of total route disposition per month (1 new, 1 currently partially regulated, and 1 currently unregulated). Since October 1997, one pool distributing plant and one partially regulated plant have gone out of business.

There would be 6 distributing plants in the Chicago area (5 pool plants and 1 exempt plant). The Milwaukee-Racine area would have 2 pool distributing plants. There would be 7 distributing plants in the Minneapolis-St. Paul area (6 pool plants and 1 partially regulated plant). Of the remaining 20 distributing plants, 16 are located in other MSAs as follows: 4 pool plants in Minnesota, 2 pool plants and 2 partially regulated plants in North Dakota, 1 pool plant in Illinois, and 5 pool plants, 1 partially regulated plant, and 1 exempt plant in Wisconsin. Four of the remaining distributing plants are not located in MSAs: 1 pool plant and 1 exempt plant in Minnesota, 1 producer-handler in Wisconsin and 1 pool plant in Michigan.

Utilization.

According to October 1997 pool statistics for handlers who would be fully regulated under this Upper Midwest order, the Class

I utilization percentages for the Chicago Regional and Upper Midwest were 29 and 19 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Upper Midwest order, the potential impact of this consolidation on producers who supply the current market areas is estimated to be: Chicago Regional, a 3-cent per cwt decrease (from $12.98 to $12.95), and Upper Midwest, a 2-cent per cwt increase (from $12.89 to $12.91). The weighted average use value for the consolidated Upper Midwest market, based on October 1997 data, is estimated to be $12.94 per hundredweight. However, a substantial amount of milk was omitted from both pools for October 1997 because of unusual class price relationships. Annual Class I utilization percentages may be considered more representative for these markets. For the year 1997, the annual Class I utilization percentage for the Chicago Regional market was 21.5, with 18.7 for the Upper Midwest. The Class I use percentage for the entire Michigan Upper Peninsula market, which has a individual handler pool and represents a very small portion of the producer milk that would be expected to be pooled under the consolidated Upper Midwest order, was 89 percent. It is estimated that the Class I use percentage for the consolidated order would be in the neighborhood of 20 percent.

Other Plants.

Located within the consolidated Upper Midwest marketing area during May 1997 were 301 supply or manufacturing plants: 1 in South Dakota, 3 in Iowa, 28 in Illinois (12 in the Chicago area), 39 in Minnesota (over three-quarters of which are located in the southeastern quarter of the State), and 230 in Wisconsin (over 90 percent of which are scattered throughout the southern three-quarters of the state). One hundred five of the plants are pool plants, or have a “pool side.” Eighty-five of the 105 pool plants (1 in Iowa, 4 in Illinois, 16 in Minnesota and 64 in Wisconsin) are “split plants;” that is, one side of a plant is a manufacturing facility and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Most of the other pool plants are pool supply plants, located primarily in Wisconsin, that ship milk to pool distributing plants.

The 196 nonpool plants in the consolidated Upper Midwest marketing area are manufacturing plants -- 103 manufacture primarily cheese, 16 manufacture primarily Class II products, 15 manufacture primarily butter, 23 manufacture primarily milk powders, and 39 manufacture primarily other products.

Also associated with the Upper Midwest order, but not within the marketing area, are 2 pool supply plants and 6 manufacturing plants (3 manufacturing primarily cheese, 2 making Class II products, and 1 butter plant) in North Dakota.

Cooperative Associations.

In December 1997, 67 cooperative associations pooled member milk on the Chicago Regional and Upper Midwest orders, providing 99 percent of the milk pooled under each of the two orders. Nine of the cooperatives marketed milk in both orders, accounting for nearly half of the milk pooled in the Upper Midwest (and 42.9 percent of the cooperative member milk), and 66.8 percent of the milk pooled in the Chicago Regional market (67.5 percent of total cooperative member milk). In the two markets, 16 cooperatives pooled milk only under Order 30, and 42 cooperatives pooled milk only under Order 68.

Criteria for Consolidation.

As in the proposed rule, the Chicago Regional, Upper Midwest, and the western end of the Michigan Upper Peninsula marketing areas should be combined into a consolidated Upper Midwest Federal order marketing area. Although these areas do not have a considerable degree of overlapping fluid milk disposition, they do have an extensive overlapping procurement area. Handlers regulated under the Chicago Regional and Upper Midwest markets (the predominant markets in this consolidation) distribute milk into markets further south, and approximately 10 percent of the fluid milk distributed within the consolidated area is distributed by handlers regulated under other orders. However, these other orders are more closely related to markets to the south than to the consolidated Upper Midwest order area. On that basis, it is more appropriate to include them in other consolidated marketing areas.

Other aspects of the consolidation also fit the criteria set forth. The consolidated Upper Midwest area is bounded on three sides by Lakes Michigan and Superior, the international border with Canada, and a large unregulated area. A significant portion of both the Chicago Regional and Upper Midwest markets’ milk is supplied by the same cooperative associations. The two predominant markets have identical multiple component pricing plans, and both have large reserves of milk that normally is used in manufactured products, primarily cheese. Approximately 90 percent of the milk used in manufacturing in these markets is used to make cheese. The amount of cheese manufactured from milk pooled under these milk orders is enough to supply a population 3 times greater than that of the consolidated marketing area. Fluid milk handlers in both markets must compete with cheese manufacturers for a milk supply, and marketing order provisions for both markets must provide for attracting an adequate supply of milk for fluid use.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the order areas included in the Upper Midwest marketing area that were considered included combining the Iowa, Nebraska-Western Iowa, and Eastern South Dakota order areas with those of the Chicago Regional and Upper Midwest areas in a consolidated Upper Midwest order. Also considered was a consolidation of even more marketing areas (up to 10; including Indiana, Illinois, parts of Kentucky, Missouri, and Kansas) that would increase the population and Class I use of the consolidated Upper Midwest area.

Over 160 comments received in response to the proposed rule concerned the proposed consolidated Upper Midwest marketing area. Nearly 140 of these comments (including approximately 120 form letters) supported a consolidation of 10 marketing areas for the purpose of increasing the Class I utilization of the consolidated Upper Midwest order area to a level closer to the U.S. national average or, at the very least, including the Iowa, Eastern South Dakota, and Nebraska-Western Iowa marketing areas in the consolidated Upper Midwest area.

No justification on the basis of the criteria of overlapping sales and procurement areas could be found for any increase in a consolidated marketing area that would be comprised of the Chicago Regional and Upper Midwest order areas beyond the addition of the Iowa, Eastern South Dakota, and Nebraska-Western Iowa marketing areas. The collection of more detailed data concerning the overlap in route disposition and milk procurement showed clearly that those three areas are more closely related to markets to the south than to the north, with approximately 85 percent of the total fluid milk distributed by handlers regulated under the three orders disposed of in the consolidated Central market.

The numerous markets recommended by upper midwest producer groups to be consolidated with the Chicago Regional and Upper Midwest order areas have very little distribution or procurement overlap with those areas, aside from occasional need for reserve milk supplies. When reserve supplies are needed by the other markets, upper midwest milk can be, and is, pooled on the more southern markets and shares in their pools. The potential gain of adding areas recommended by upper midwest producer groups would be much less than the loss to producers whose milk is pooled under orders to be consolidated in the Central, Mideast and Appalachian marketing areas.

Approximately 10 comments, including some from cooperative associations representing large numbers of producers, advocated the addition of the northeast portion of the Iowa marketing area to the consolidated Upper Midwest area based on the extensive overlap of producers, Class I sales, and geographic similarities between that area and the adjoining consolidated Upper Midwest area. An equivalent number of comments, most from Iowa interests, argued that the consolidated Upper Midwest order should remain as proposed. This issue is more fully discussed in the “Comments and Alternatives” section of the description of the Central order area, as is the assignment to consolidated areas of 3 counties, each in its entirety, that currently are split between orders.

One comment advocated the addition of the Gary, Indiana, area to the consolidated Upper Midwest area instead of the Mideast area on the basis that Gary, Indiana, is part of the greater Chicago market. This portion of the current Indiana order area historically has been part of the Indiana marketing area, and there is no data supporting its separation from that area. The single pool distributing plant located in Gary has ceased to process milk. Any distribution in the Gary area acquired by Chicago handlers as a result will be pooled as Class I use under the consolidated Upper Midwest order.

Based on the considerations of the most recent data available, comments received, and the stated consolidation criteria, limiting the extent of the consolidated Upper Midwest marketing area to the areas of the current Chicago Regional and Upper Midwest marketing areas, with the addition of the western part of the Michigan Upper Peninsula marketing area, represents the most appropriate marketing area configuration for the north central area of the U.S.

CENTRAL.

The consolidated Central order marketing area merges the current 9 Federal order marketing areas of Central Illinois, most of Southern Illinois-Eastern Missouri, most of Southwest Plains, Greater Kansas City, Iowa, Eastern South Dakota, Nebraska-Western Iowa, Western Colorado, and Eastern Colorado (Federal orders 50, 32, 106, 64, 79, 76, 65, 134, and 137, respectively). Moving to the consolidated Southeast marketing area are 6 Missouri counties currently in Federal order 32 and, from Order 106, 11 northwest Arkansas counties and 22 southern Missouri counties. Order 106 counties in Kansas and Oklahoma remain in the Central market. In addition, some counties in Colorado, Illinois, Iowa, Kansas, Missouri and Nebraska that currently are not part of any order area are included in the consolidated Central market. There are 543 counties and the City of St. Louis, Missouri, in this consolidated area. The marketing area has changed from the proposed rule by the addition of the Western Colorado marketing area and seven currently-unregulated Colorado counties, the elimination of 6 currently-unregulated Missouri counties, the addition of two partial counties and the deletion of one partial county for the purpose of eliminating the inclusion of partial counties.

Geography.

The consolidated Central marketing area would include the following territory:

Colorado - 44 counties, including the 30 Colorado counties currently in the Eastern Colorado marketing area and the 4 Colorado counties in the Western Colorado marketing area. Ten currently-unregulated counties, 3 in the southeast corner of the state between the Eastern Colorado and Southwest Plains marketing areas, and 7 in the central part of the State between the Eastern Colorado and Western Colorado marketing areas, are added.

Illinois - 87 counties, including the 5 of the 6 counties currently in the Iowa marketing area (of the 2 partial Illinois counties in the Iowa marketing area, all of Whiteside and none of Jo Daviess are included in the Central area), the 19 counties currently in the Central Illinois marketing area, the 49 counties currently in the Southern Illinois-Eastern Missouri marketing area and 8 currently-unregulated adjacent counties in southern Illinois, and 6 currently-unregulated counties in western Illinois located between the current Central Illinois and Southern Illinois-Eastern Missouri order areas and the Mississippi River.

Iowa - 93 counties, including the 68 counties currently in the Iowa marketing area, the 17 counties currently in the Nebraska-Western Iowa marketing area, the 1 county currently in the Eastern South Dakota marketing area, 6 currently unregulated counties in the northwestern part of Iowa, and 1 currently unregulated county in the southeastern corner of Iowa.

Kansas - the entire State (105 counties).

Minnesota - the 4 southwestern Minnesota counties that currently are in the Eastern South Dakota marketing area.

Missouri - 39 counties and 1 city, including 6 of the counties and 1 city that currently are in the Southern Illinois-Eastern Missouri marketing area, the 20 counties that currently are in the Greater Kansas City marketing area, the 5 counties that currently are in the Iowa marketing area; and 8 currently-unregulated counties distributed around the center area proposed to remain unregulated.

Nebraska - 66 counties in the southern and eastern parts of Nebraska; omitting the 11 counties in the panhandle that currently are part of the Nebraska-Western Iowa marketing area, and adding 5 currently-unregulated counties in the southwest corner of the State between the Nebraska-Western Iowa and Eastern Colorado marketing areas and 3 currently-unregulated counties in the southeast corner of the State between the Nebraska-Western Iowa and Greater Kansas City marketing areas.

Oklahoma - the entire State (77 counties).

South Dakota - the 26 eastern South Dakota counties (including the portion of Union County that currently is in the

Nebraska-Western Iowa marketing area) that currently are in the Eastern South Dakota marketing area.

Wisconsin - the 2 southwest Wisconsin counties that currently are in the Iowa marketing area.

The consolidated Central marketing area is adjacent to the consolidated Upper Midwest order area on the north and northeast, the consolidated Mideast and Appalachian areas on the east, and the northwest corner of the Southeast order area and the consolidated Southwest area on the south and the consolidated Western order area on the west. The area north of approximately the western half of the consolidated Central area also is unregulated. The north-south distance covered by the area is approximately 800 miles, from Watertown, South Dakota, to Ardmore, Oklahoma. The east-west extent of the area, from the Indiana-Illinois border to the Colorado/Utah border, is approximately 1,200 miles.

Geographically, the Central marketing area includes a wide range of topography and climate types, ranging from the Colorado Plateau and the Rocky Mountains in the west to the central section of the Mississippi River Valley toward the eastern part of the area. Precipitation ranges from less than 15 inches per year in Denver, Colorado, to more than 30 inches at St. Louis, Missouri. Most of the area experiences fairly hot summer temperatures, while winter temperatures vary somewhat more than summer, with colder winter temperatures occurring in the northern and western parts of the Central area. The natural vegetation ranges from desert and desert scrub in western Colorado through coniferous forest in the Rocky Mountains to short grass prairie in eastern Colorado through tall grass prairie in eastern South Dakota, Nebraska, Kansas and Oklahoma, and much of Illinois; to broadleaf forest on both sides of the Mississippi River.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated Central marketing area is approximately 21.5 million. Using Metropolitan Statistical Areas (MSAs), there are four population centers over 1 million. The St. Louis, Missouri/Illinois, area is the largest, with over 2.6 million population, and the Denver-Boulder-Greeley, Colorado, area is next with approximately 2.3 million. Kansas City, Missouri/Kansas, has a population of 1.7 million, and Oklahoma City, Oklahoma, is just over 1 million. Approximately thirty-five percent of the population of the consolidated marketing area is within these four largest MSAs, with nearly two-thirds of the population contained within the area’s 32 MSA’s (with the 28 smaller MSAs averaging 228,559 population). The Colorado portion of the marketing area has 91.3 percent of its population concentrated in 5 MSA’s. The Missouri portion has 94.4 percent concentrated in 3 MSA’s.

Fluid Per Capita Consumption.

Based on the population figure of 21.5 million and a per capita fluid milk consumption rate of 19 pounds of fluid milk per month (a weighted average based on state populations in the marketing area and fluid per capita consumption estimates for each state), total fluid milk consumption in the consolidated Central marketing area would be approximately 408.5 million pounds per month. Plants that would be fully regulated distributing plants in the Central order had route disposition within the nine marketing areas included in the consolidated Central area of 366 million in October 1997. It is likely that most of the milk distributed within formerly unregulated areas by Central order handlers would be distributed within the consolidated Central marketing area. The 11 producer-handlers and 3 exempt plants operating in the Central market during October 1997 had a combined in-area route disposition of 3 million pounds, partially regulated plants distributed 2 million pounds in the marketing area, and plants that are expected to be fully regulated under other consolidated orders distributed 59 million pounds in the Central marketing area during October 1997.

Milk Production.

In October 1997, 996.7 million pounds of milk were associated with the orders consolidated in the Central market (including all of the milk pooled under Orders 32 and 106). However, because of class price relationships in the Iowa and Nebraska-Western Iowa markets, only 893.2 million pounds of the milk was pooled. The 996.7 million pounds were produced by 9,900 producers located in 17 states from Idaho to Kentucky, and from Texas to Minnesota. Three-quarters of the milk associated with the Central market was produced within the consolidated marketing area. The states contributing the most producer milk were, in descending order of volume, Iowa, Colorado, Missouri, Kansas, Illinois and Oklahoma. However, 68 percent of the Missouri producer milk came from farms in counties which are included in the consolidated Southeast marketing area. These 6 States accounted for 71 percent of the producer milk associated with the nine current orders to be consolidated. All of the states having substantial portions of their areas in the consolidated Central market contribute producer milk to at least two of the current nine individual orders, with five of the states (Iowa, Kansas, Minnesota, Missouri, and Nebraska) supplying milk to five of the order areas each.

Distributing Plants.

Using distributing plant lists included in the proposed rule and the pooling standards adjusted to 25 percent of route dispositions as in-area sales, updated for known plant closures through December 1998, 57 distributing plants would be expected to be associated with the Central marketing area, including 35 fully regulated distributing plants (all currently pool plants), 1 partially regulated (currently partially regulated), 3 plants exempt on the basis of size (currently pool plants but have less than 150,000 pounds of total route disposition per month), 13 producer-handlers (all currently producer-handlers), 1 unregulated plant (located in the unregulated central portion of Missouri), and 4 government agency plants (all currently government agency plants). Since October 1997, it is known that 1 pool distributing plant (in Illinois) and 1 partially regulated plant (in Wyoming) have gone out of business.

There would be 10 distributing plants in the Denver area (7 pool plants and 3 producer-handlers). The Kansas City area would have 1 pool distributing plant. The St. Louis area would have 6 distributing plants (4 pool plants, 1 exempt plant, and one producer-handler). There would be 1 pool distributing plant and 2 producer-handlers in the Oklahoma City area. Of the remaining 37 distributing plants, 19 are located in other MSAs as follows: 1 pool plant, 1 exempt plant (on the basis of size) and 1 producer-handler in Colorado; 1 pool plant in Illinois; 4 pool plants, 1 producer-handler and 1 exempt plant in Iowa; 1 pool plant in Kansas; 3 pool plants in Nebraska; 1 pool plant and 1 producer-handler in Oklahoma; 1 pool plant and 1 partially regulated plant in South Dakota, and 1 pool plant in Wyoming.

Eighteen of the remaining distributing plants are not located in MSAs. They are: 1 pool plant and 1 government agency plant in Colorado; 4 pool plants and 1 government agency plant in Illinois; 1 pool plant and 1 producer-handler in Iowa; 1 pool plant and 1 government agency plant in Kansas; 1 unregulated and 2 producer-handlers in Missouri; 1 producer-handler in Nebraska; 2 pool plants in Oklahoma; and 1 government agency plant in South Dakota.

Utilization.

According to October 1997 pool statistics for handlers who would be fully regulated under this Central order, the Class I utilization percentages for the individual markets ranged from 38 percent for the Southwest Plains market to 87 percent for the Central Illinois market. Class I (and Class II) receipts and utilization data for Iowa and the combination of Greater Kansas City and Eastern South Dakota markets are restricted to protect the confidentiality of individual handler information. Data for Eastern Colorado and Western Colorado markets are combined in order to mask restricted data. Combined utilization for the nine markets would result in a Class I percentage of 50 percent.

Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Central order, the potential impact of this consolidation on producers who supply the current market areas is estimated to be: Southern Illinois-Eastern Missouri, a 27-cent per cwt decrease (from $13.49 to $13.22); Central Illinois, a 50-cent per cwt decrease (from $13.56 to $13.06); Greater Kansas City, a 69-cent per cwt decrease (from $13.91 to $13.22); Nebraska-Western Iowa, a 10-cent decrease (from $13.23 to $13.13); Eastern South Dakota, a 32-cent decrease (from $13.33 to $13.01); Iowa, a 5-cent decrease (from $13.08 to $13.03); Southwest Plains, a 70-cent increase (from $12.94 to $13.64); Western Colorado, a 65-cent decrease (from $13.88 to $13.23); and Eastern Colorado, an 11-cent decrease (from $13.70 to $13.59). The weighted average use value for the consolidated Central order market is estimated to be $13.29 per cwt.

Other Plants.

Located within the Central marketing area during May 1997 were 84 supply or manufacturing plants: 8 in Colorado (4 in the Denver area), 15 in Illinois (2 in the Decatur area), 23 in Iowa (2 in the Des Moines area and 1 in the Dubuque area), 6 in Kansas, 7 in Missouri (5 in the St. Louis area), 7 in Nebraska, 7 in South Dakota (1 in the Sioux Falls area), 4 in Oklahoma (1 in the Tulsa area), and 7 in Wisconsin. Twenty-two of the 84 plants are pool plants, or have a “pool side.” Twelve of the 22 pool plants (6 in Iowa, 1 in Nebraska, 2 in South Dakota, and 3 in Wisconsin) are “split plants;” that is, one side of a plant is a manufacturing facility, and the other side receives and ships Grade A milk, and accounting is done separately. In most cases, the nonpool portion of such a plant is a manufacturing operation, primarily cheese-making. Of the pool plants, 8 have no primary product, but are only shipping to distributing plants, and 6 are pooled manufacturing plants.

Of the 62 nonpool plants in the consolidated Central marketing area, 59 are manufacturing plants -- 24 are plants that manufacture primarily Class II products, 3 manufacture primarily butter, 6 manufacture primarily powder, 25 manufacture primarily cheese, and 1 manufactures primarily other products.

Also associated with the consolidated Central order, but not within the marketing area, are 2 nonpool cheese plants and a nonpool supply plant located in South Dakota.

Cooperative Associations.

Twenty-five cooperative associations pooled milk in December 1997 under the nine orders consolidated in the Central market. Of these cooperatives, 1 pooled milk under 7 of the orders, 5 cooperatives associated producer milk with 3 orders each, and 2 others pooled milk under 2 orders each. Seventeen of the 25 cooperatives pooled milk under only one order, and for 10 of these organizations that was the Iowa order.

The percentage of cooperative milk pooled under the eight orders was 95, with a range of 80.7 percent cooperative milk under the Southwest Plains order to 100 percent cooperative member milk under the Central Illinois, Greater Kansas City and Eastern South Dakota orders.

Criteria for Consolidation.

Most of the criteria used in determining the optimum consolidation of order areas apply to the Central marketing area. The Federal order markets consolidated in the Central area are strongly related to each other through overlapping route disposition. The great majority of sales by handlers who would be regulated under the consolidated Central order are distributed within the marketing area, and the consolidated markets have a greater relationship in terms of overlapping sales areas than with any other markets. In addition, sales within the currently-unregulated areas included in the consolidated Central area are overwhelmingly from handlers that would be pooled under the Central order. Inclusion of these areas would reduce handlers' burden of reporting out-of-area sales and take in pockets of currently-unregulated counties that occur between the current order areas. As discussed above, the milk procurement areas for the consolidated markets also have a significant degree of overlap.

The Western Colorado order is included because the more recent data collected for this final decision indicates that since the proposed rule the Western Colorado marketing area has developed a closer relationship with the Eastern Colorado market than with any other market, even across the Continental Divide. A benefit of combining Western Colorado with other markets is that it is a small market where data cannot be released without revealing confidential information unless combined with data pertaining to another marketing area. Consolidation of the area will allow publication of meaningful statistics without disclosing proprietary information. In addition, several comments supported the combination of the Western Colorado area with the consolidated Central market in view of the large negative effect of lower producer pay prices on the small number of producers involved if the Western Colorado area were consolidated with the Southwestern Idaho-Eastern Oregon and Great Basin marketing areas.

Some of the currently-unregulated counties in western Illinois and central Missouri have been added to the Central marketing area. The omission from the marketing area of the counties in central Missouri that are not included in the consolidated Central marketing area are based on an estimation of the marketing area of Central Dairy, located in Jefferson City, Missouri. This handler has not been previously regulated. As discussed earlier, it is not the intent of this decision to include currently-unregulated area in the consolidated order areas where such inclusion would have the effect of regulating previously-unregulated handlers.

An additional benefit of the consolidation of these nine order areas is that data will be able to be made public without disclosing proprietary information. Four of the current Federal order markets (Central Illinois, Greater Kansas City, Eastern South Dakota, and Western Colorado) included in this consolidated area have too few pool plants to be able to publish market data without revealing confidential information. In addition to these three markets, the number of handlers regulated under each of the Nebraska-Western Iowa, Iowa and Eastern Colorado orders is in the single digits.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the order areas included in the Central marketing area that were considered included combining the Iowa, Nebraska-Western Iowa, and Eastern South Dakota order areas with those of the Chicago Regional and Upper Midwest areas in a consolidated Upper Midwest order. The collection of more detailed data concerning the overlap in route disposition and milk procurement showed clearly that these marketing areas are more closely related to markets to the south than to the north.

Approximately 85 percent of the total fluid milk dispositions distributed by handlers regulated under the three order areas that were suggested to be included in the Central area in the initial Preliminary Report, and in the Upper Midwest area in the Revised Preliminary Report, are disposed of in the consolidated Central market. The disposition by other Central marketing area handlers within the consolidated Central area is somewhat greater than the proportion for the three more northern order areas.

Also considered was the exclusion of 14 Nebraska counties, in addition to the 11 already excluded, from the Central marketing area to expand the unregulated area in which Gillette Dairy could distribute milk without becoming regulated. There was no data indicating that Gillette distributes milk in those counties. In the early stages of the study of appropriate order consolidation, it was assumed that the southern Missouri and northwest Arkansas portions of the Southwest Plains order area would remain with the rest of that area. This area was included with the consolidated Southeast order area in the proposed rule, and remains there.

Eighteen comments that pertained specifically to the proposed Central marketing area were filed by 17 commenters in response to the proposed rule. Four of these comments advocated moving the Western Colorado order area from the consolidated Western order to the consolidated Central order. These comments expressed concern about the expected reduction in the blend price to Western Colorado producers under the Western order. An examination of updated data on route dispositions and bulk milk movements resulted in making this change which is explained in greater detail in the description of comments and alternatives under the section of this decision dealing with the Western area.

A comment filed by the American Farm Bureau Federation recommended that the central area of Missouri that was proposed to be unregulated be included in the Central order area. A comment filed on behalf of Central Dairy, the handler who is located and distributes milk in the unregulated Missouri area opposed the addition of any presently unregulated territory to Federal order marketing areas, and specifically opposed the addition of six currently-unregulated northeast Missouri counties into which the handler expects to expand its distribution. There is no intention of causing the regulation of this handler. As discussed earlier with regard to the Northeast and Mideast marketing areas, consolidation of the existing orders does not necessitate expansion of the consolidated orders into currently-unregulated areas, especially if such expansion would result in the regulation of currently-unregulated handlers. At the same time, minimizing the extent of the unregulated counties in the middle of the consolidated marketing area would help to reduce the reporting burden on handlers in determining which route dispositions are inside, and which are outside the marketing area. The administrative burden of verifying such reporting also would be eliminated. Six currently-unregulated northeast Missouri counties that were proposed to be added to the Central order area have been removed on the basis of comments received from the Jefferson City handler, who indicated that regulation of the six counties may result in a change in the handler's regulatory status. No urgency on the part of regulated handlers having sales in the unregulated area to include that area in the consolidated order area was apparent from comments. In fact, none of the comments received from affected handlers advocated that the unregulated area be included in the consolidated area.

A comment by Gillette Dairy, a handler located in Rapid City, South Dakota, in the former Black Hills Federal order area, supported excluding the 11 counties of the Nebraska panhandle, currently part of the Nebraska-Western Iowa order area, from the consolidated Central area. Gillette has some sales in this area and competes there with regulated handlers, but requested that the panhandle area be excluded to lessen Gillette's likelihood of becoming fully regulated under the Central order. This area was excluded in the proposed rule, and its exclusion was unopposed by any interested persons who filed comments before the deadline for doing so. Although Gillette's sales in the panhandle area do not represent an overwhelming majority of the total sales there, the volume of sales in this sparsely-populated area should not affect the competitive status of any regulated handlers. Therefore, the area will be excluded from the consolidated area as proposed.

Several comments, from the Iowa Department of Agriculture, Wells' Dairy, and Anderson-Erickson Dairy, as well as Swiss Valley Farms, supported the inclusion of the Iowa order area in the consolidated Central area, stating that the attraction of a supply of milk for fluid needs requires such a consolidation.

Comments were received on dividing the current Iowa marketing area by adding the eastern edge of the Iowa marketing area to the proposed consolidated Upper Midwest order. Such a division would result in the Swiss Valley Farms distributing plant in Dubuque, Iowa, qualifying as a pool plant under the consolidated Upper Midwest order (as it now does during some months under the current Chicago Regional order). The Swiss Valley plant comprises a large majority of the Iowa market sales in the Chicago Regional and Upper Midwest order areas, and the movement of a half-dozen counties would assure its pool status in the consolidated Upper Midwest order and its location in that order area.

Comments by Lakeshore Federated Dairy Cooperative argued that the extensive overlap of producers, Class I sales, and geographic similarities between the northeast portion of the Iowa marketing area and the adjoining consolidated Upper Midwest area should be considered compelling reasons for making such a change. Lakeshore's comments were supported by Prairie Farms, Foremost Farms, and DFA. In addition, Grande Cheese Company, a Wisconsin cheesemaker, filed comments supporting Lakeshore's position.

In its comments, Swiss Valley argued that the 2 southwest Wisconsin counties proposed to be included in the consolidated Central marketing area were removed from the Chicago Regional area and added to the Iowa area on the basis of a formal rulemaking proceeding in the late 1980's, at which time it was determined that the principal competition for fluid sales and milk supply in this area occurred between Iowa handlers rather than with Chicago Regional handlers. It is therefore Swiss Valley's position that the two counties should remain with the rest of the Iowa area, in the consolidated Central marketing area.

On the basis of data gathered for this decision, the primary source of route disposition in Grant and Crawford Counties, Wisconsin, and Dubuque County, Iowa, is the Swiss Valley plant in Dubuque, and most of the rest of the milk distributed in these counties is from handlers regulated under the Chicago Regional order. The data also shows that the Dubuque plant procures most of its milk supply from counties that also supply milk to the Chicago Regional and Upper Midwest orders, as well as to other plants pooled under the Iowa order.

One of the problems in this marketing area has been the ability of the Swiss Valley plant to choose the order under which it is regulated. As a result of differences between the current pool plant definitions of the two orders, Swiss Valley has been able to switch regulation between the Iowa and Chicago Regional orders as its price advantage shifted, and has done so frequently during 1997 and 1998. The pool plant definitions of the consolidated Upper Midwest and Central orders, which are very similar, will require that the Swiss Valley plant be regulated under the order for the area in which it has the greater volume of route disposition.

If, under the consolidated orders, the Dubuque plant distributes a greater share of its sales in the consolidated Upper Midwest area than in the consolidated Central area, the plant will be pooled under the Upper Midwest order. The only appropriate change to be made to the current Iowa marketing area is to eliminate the partial counties from the marketing area definitions of the consolidated Central and Upper Midwest orders.

The Illinois Counties of Jo Daviess and Whiteside currently are split between the Iowa and Chicago Regional order areas. More than half of the sales in Whiteside County are supplied by Iowa handlers (including Swiss Valley), so Whiteside County will be located entirely within the consolidated Central area. More than half of the sales in Jo Daviess County are supplied by Chicago Regional handlers (not including Swiss Valley), and that county will be located entirely within the consolidated Upper Midwest area. The Iowa County of Mitchell currently is located in the Upper Midwest area except for the City of Osage, which is defined as part of the current Iowa marketing area. All of Mitchell County will be included in the consolidated Upper Midwest area.

After considering all comments and other relevant information, it is determined that the territory encompassed in the Central marketing area best meets the criteria used.

SOUTHWEST.

The consolidated Southwest marketing area is comprised of the current Texas (Order 126) and New Mexico-West Texas (Order 138) marketing areas as well as 49 currently unregulated Texas counties. There are 290 counties in this area. This area remains unchanged from the proposed rule.

Geography.

The consolidated Southwest market is described geographically as follows: three counties in Colorado (currently in Order 138), all New Mexico counties (33, currently in Order 138) and all 254 Texas counties (162 currently in Order 126, 43 currently in Order 138, and 49 currently unregulated). Two currently unregulated counties are located in northeast Texas, while the remaining 47 are in southwest Texas.

The Southwest market spans the south central area of the

United States. It is surrounded by Arizona on the west, Colorado and Oklahoma on the north, Arkansas, Louisiana and the Gulf of Mexico in the northeast, east, and southeast, and Mexico to the south. Measuring the extreme dimensions, this market extends about 800 miles north to south from southern to northern Texas and about 875 miles east to west from Texas' border with Louisiana and Arkansas to New Mexico's border with Arizona.

The Southwest market is contiguous to 3 consolidated marketing areas: Arizona-Las Vegas to the west, Central to the north and Southeast to the east. Unregulated counties in Colorado also form a relatively small border in the northwest corner of the market. Texas has over 350 miles of coastline on the Gulf of Mexico, while Texas and New Mexico share about 970 miles of boundary with northern Mexico.

In terms of physical geography, diverse topographic relief exists in the Southwest market area, particularly in New Mexico (ranging from deserts to high mountain ranges). Northwest New Mexico is part of the Colorado Plateau, an area of broad valleys and plains as well as deep canyons and mesas. The Rocky Mountains extend into the north central area of the state. The Basin and Range region, generally characterized by ranges or isolated mountains interspersed with valleys, desert basins or high plains, is located in central and southwestern New Mexico, as well as western Texas. The Great Plains cover the eastern third of New Mexico and extend through the Texas Panhandle in north Texas and much of central Texas. This area is characteristically dry and treeless and also encompasses Texas hill country and the Edwards Plateau. The Osage Plains covers the area in Texas from the Oklahoma-Texas border into the south central part of the state and the low and flat West Gulf Coastal Plain covers the eastern two-fifths of the state.

Climates in this region also vary. The western part of the region, including New Mexico, southwest Texas and the Texas Panhandle, is semi-arid to arid with wide ranges in both daily and annual temperatures. The southern tip of Texas and the Gulf coast are more humid and subtropical. For some of the area there are few agricultural uses other than dairy farming. Dairy products were the 2nd and 3rd highest revenue-producing agricultural commodities in New Mexico and Texas, respectively, in 1996, accounting for nearly one-third of agricultural receipts in New Mexico, but less than 10 percent in Texas.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 21.3 million. The 26 Metropolitan Statistical Areas (MSA) in the consolidated Southwest market account for 81.3 percent of the total market area population. About 55 percent of the Southwest population is located in the 4 most populous MSAs. Seven MSAs have populations greater than 500,000; their total population is 63.4 percent of the Southwest population. Because of the large number of MSAs in the Southwest market, only those areas with populations greater than 500,000 are described in detail.

Almost 92 percent of the Southwest market's population is located in Texas, which has 19.5 million people. Twenty-three of the 26 Southwest market MSAs are in Texas. About 66 percent of Texas' population is concentrated in 6 areas, which include the Southwest area's top 5 population centers: the Dallas-Fort Worth (Dallas) MSA in northeastern Texas, with a population of 4.7 million; the Houston-Galveston-Brazoria (Houston) MSA in southeastern Texas near the Gulf of Mexico, with a population of 4.3 million; the San Antonio MSA in south central Texas, with a population of 1.5 million; the Austin-San Marcos (Austin) MSA in central Texas, with a population of 1 million; the El Paso MSA located in the far western corner of Texas on the Texas-New Mexico-Mexico border, with a population of 702,000; and the McAllen-Pharr-Edinburg MSA located at the southern tip of Texas, with a population of 511,000.

New Mexico's population is about 1.7 million. The remaining 3 of the 26 Southwest market MSAs are located in New Mexico. About 40 percent of the state's population is located in the Albuquerque area, just northwest of central New Mexico.

In the remainder of the Southwest marketing area, the 3 Colorado counties have a population of about 71,000.

Fluid Per Capita Consumption.

Estimates of fluid per capita consumption vary from 17.1 pounds of fluid milk per month per person in Texas to 17.5 in New Mexico to 18.8 in Colorado. Multiplying the individual states' consumption rate by its population in the consolidated marketing area results in a fluid milk consumption rate of 364.5 million pounds of fluid milk per month for the consolidated Southwest marketing area.

In October 1997, the fully regulated plants in Orders 126 and 138 had route distribution totaling 342.5 million pounds. Ninety-eight percent, or 328 million pounds, was distributed within the consolidated Southwest marketing area. Handlers fully regulated under other Federal orders had about 21 million pounds of route distribution into the Southwest market area. Producer-handlers in the Southwest area distributed about 5 million pounds of route distribution in the Southwest marketing area in October 1997, while partially-regulated plants and plants that would be exempt on the basis of size distributed approximately .5 million pounds.

Production.

In October 1997, 1,570 producers from 144 counties in 5 states pooled 650 million pounds of producer milk on Orders 126 and 138. Over 99 percent of this producer milk came from counties included in the consolidated Southwest marketing area. About 55 percent of the combined market's producer milk was provided by producers in six counties.

About 455 million pounds of milk were pooled on either Order 126 or 138 from 1,345 producers in 118 Texas counties in October 1997. Three Texas counties were among the top 6 in volume pooled: Erath (1st), Hopkins (4th) and Comanche (6th). Erath County -- located about 75 miles west of Dallas -- pooled 104.5 million pounds on Order 126 (and an additional 9 million pounds on 3 other Federal orders). Hopkins County -- located about 50 miles east of Dallas -- pooled 34 million pounds on Order 126 and another 15 million pounds on 4 other Federal orders. Contiguous to and lying southwest of Erath County, Comanche County pooled 33 million pounds on Order 126 and about .5 million pounds on 3 other Federal orders.

Of the 271 million pounds of milk pooled on either Order 126 or 138 from 185 producers in 12 New Mexico counties, 69 percent was produced in the following three counties, all among the top 6 in volume pooled: Chaves (2nd), Dona Ana (3rd) and Roosevelt (5th). Chaves County -- located about 200 miles southeast of Albuquerque -- pooled 92 million pounds on Orders 126 and 138 in October 1997 and an additional 28 million pounds on 3 other Federal orders. Dona Ana County, located over 200 miles south of Albuquerque, contiguous to El Paso County, TX, and the U.S.-Mexico border, pooled 61 million pounds of producer milk on Order 138. Contiguous to and lying northeast of Chaves County, Roosevelt County pooled 33 million pounds on Orders 126 and 138 and another 6.6 million on 4 other Federal orders.

In October 1997, producer milk for Orders 126 and 138 also originated in one of the Colorado counties in the Southwest marketing area, and in counties in Arkansas and Oklahoma. However, the combined amount of producer milk pooled from these areas is less than 1 percent of the total producer milk pooled in these Orders.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 31 distributing plants located in the consolidated Southwest marketing area would be expected to be associated with the Southwest market, including 21 fully regulated distributing plants, 2 partially regulated, 2 exempt and 6 producer-handlers. None of these plants' regulatory status is expected to change as a result of the consolidation process. Of the 21 fully regulated plants, 17 are located in the top six MSA regions.

Since October 1997, it is known that 3 plants (2 fully regulated and 1 producer-handler) have gone out of business. The fully regulated plants were located in El Paso, Texas, and in Albuquerque, New Mexico. The producer-handler was located in Hobbs, New Mexico.

Of the 31 distributing plants that would be located in the consolidated Southwest marketing area, 24 are in Texas, and 7 are in New Mexico. Twenty of the Texas plants would be fully regulated. They are as follows: 6 in the Dallas area, 3 in the Houston area, 2 in the San Antonio area, 1 in the Austin area, and 2 in the El Paso area, and 6 located throughout the state. One of the Texas distributing plants was associated with Order 30 (Chicago Regional) in October 1997, and is expected to be partially regulated in the Southwest market. Two producer-handlers are located in Texas, one in the El Paso area and the other in the central part of the state.

Just over half of New Mexico's 7 distributing plants are located in the Albuquerque area. One fully regulated handler and 3 producer-handlers are located in this population center. Of the remaining 3 plants located in New Mexico, there are 2 plants that would be exempt on the basis of size (both located in central New Mexico) and 1 producer-handler (located southeast of Albuquerque).

Utilization.

According to October 1997 pool statistics, the Class I utilization percentages for the Texas and New Mexico-West Texas markets were 56 and 44 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Southwest order, the potential impact of this consolidation on producers who supply the current market areas is estimated to be: Texas, a 5-cent per cwt decrease (from $14.09 to $14.04), and New Mexico-West Texas, a 10-cent per cwt increase (from $13.51 to $13.61). The weighted average use value for the consolidated Southwest order market is estimated to be $13.97 per cwt. For October 1997, combined Class I utilization for Orders 126 and 138 was 53.4 percent based on 347.0 million pounds of producer milk used in Class I out of 649.9 million total producer milk pounds.

Other Plants.

Located within the Southwest marketing area during May 1997 were 17 manufacturing plants: 11 in Texas (2 in the Dallas MSA and 1 in the El Paso MSA) and six in New Mexico. Six of the 17 plants were pool plants. All of these pool plants were manufacturing plants -- one manufactured primarily Class II products, two manufactured primarily powder, two manufactured primarily cheese and one manufactured primarily other products. Of the 11 nonpool plants in the Southwest marketing area, all were manufacturing plants -- one manufactured primarily powder, four manufactured primarily cheese, one manufactured primarily other products and five manufactured primarily Class II products.

Cooperative Associations.

In December 1997, three cooperative associations marketed about 95 percent of the milk pooled under both of the orders consolidated in the Southwest area: Dairy Farmers of America (DFA); and Select Milk Producers, Inc. (Select); and Elite Milk Producers, Inc. (Elite).

Criteria for Consolidation.

Nearly all of the route disposition by Order 126 and 138 handlers is distributed within the consolidated marketing area. In addition, nearly all of the milk that would be pooled under the consolidated order, based on October 1997 data, originates within the marketing area. Two cooperatives market the vast majority of milk within the consolidated area.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the Texas and New Mexico-West Texas order areas that were considered included the consolidation of east Texas with the Southeast area. This alternative consolidation was examined at length and found to have little overlap of either fluid milk product disposition or producer milk movements.

Only one comment pertained specifically to the consolidated Southwest marketing area. This was a comment from DFA that discussed general support for the marketing areas proposed by USDA, with no objection to the Southwest marketing area, as proposed.

ARIZONA-LAS VEGAS.

The consolidated Arizona-Las Vegas marketing area is comprised of the current Central Arizona (Order 131) marketing area, one county in Nevada which currently is in the Great Basin (Order 139) marketing area, and currently unregulated counties in Arizona. There are 16 counties in this consolidated marketing area. This area remains unchanged from the proposed rule.

Geography.

The Arizona-Las Vegas market is described geographically as follows: All counties (15) in Arizona (6 whole and 1 partial currently are part of Order 131, and 8 whole and 1 partial currently are unregulated) and Clark County, Nevada, which currently is part of the Great Basin marketing area. The market extends about 400 miles north to south from Arizona’s border with Utah (and Nevada’s southernmost county) to the U.S.-Mexico border. The market ranges from 300 to 375 miles east to west from the Arizona-New Mexico border to the Arizona/southern Nevada-California border.

The Arizona-Las Vegas marketing area is contiguous to two other consolidated marketing areas, the Great Basin portion of the Western area to the north and the New Mexico-West Texas portion of the Southwest area to the east. California, which is not part of the Federal order system, lies to the west and Mexico is south of this marketing area.

Arizona can be divided into three geographic regions -- the Sonoran Desert, in the southwest; the Colorado Plateau, in the north; and the Mexican Highland, mainly in the central and southeastern parts of the state. With each of these regions, three distinct climatic zones exist: the Sonoran Desert is hot in the summer but can experience frost in the winter; the Colorado Plateau is hot and dry in the summer and cold and windy in the winter; and the Mexican Highland receives significant precipitation in both summer and winter. This region is cooler in both summer and winter than the Sonoran Desert region.

These topographical and climatic conditions apparently are conducive to milk production. Dairy products represent one of the principal agricultural commodities (2nd and 3rd) in the States of Arizona and Nevada, respectively, representing 16.6 and 21.7 percent of total agricultural receipts of the two States in 1996.

Population.

Arizona is one the fastest-growing states in the United States. According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 5.7 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Phoenix-Mesa (Phoenix) area, located in central Arizona approximately 125 miles north of the U.S.-Mexico border in the Sonoran Desert region. About 250 miles to the northwest of Phoenix is the Las Vegas, Nevada, area, the second-largest population center in this marketing area. The Las Vegas MSA is comprised of three counties: Clark and Nye counties in Nevada and Mohave County in Arizona. Almost half of this market's population is in the Phoenix area, and over 70 percent is accounted for when Las Vegas is added.

Fluid Per Capita Consumption.

Based on the population figure of 5.7 million and an estimated per capita fluid milk consumption rate of 20 pounds of fluid milk per month, total fluid milk consumption in the Arizona-Las Vegas marketing area is estimated at 114 million pounds per month. In October 1997, plants that would have been fully regulated distributing plants in the Arizona-Las Vegas order had route disposition within the market of approximately 95 million pounds, representing 94 percent of their route disposition. Another 6.5 million pounds of milk was distributed in the consolidated marketing area by 2 handlers expected to be fully regulated under the consolidated Western Federal order and by 10

California plants that are partially regulated under the Central Arizona and Great Basin orders.

Milk Production.

In October 1997, almost 196 million pounds of milk was pooled in the Central Arizona market, supplied by over 100 producers located in fewer than 10 counties in Arizona and California. Over 95 percent of the Central Arizona milk was produced within the marketing area. Further, over 90 percent of the producer milk produced within the Order 131 area was produced in Maricopa County, Arizona, where Phoenix, this market's largest city, also is located. With 177 million pounds of producer milk for October 1997, Maricopa County produces almost twice the amount of milk required to meet the fluid milk needs of the entire marketing area. Arizona producers did not supply milk to any other Federal order; however, it is known that producer milk moves from both Arizona and Clark County, Nevada, to southern California. These figures do not reflect the producer milk associated with Anderson Dairy, the Las Vegas handler who has been pooled on Order 139. There is only one producer located in Clark County, Nevada. Anderson's milk supply comes from a cooperative association in southern California.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 8 distributing plants would be expected to be associated with the consolidated Arizona-Las Vegas marketing area, including 5 fully regulated distributing plants (all currently pool plants), 1 exempt plant and 2 producer-handlers. There are 4 distributing plants in the Phoenix area (all pool plants). Located in the Las Vegas MSA are one pool plant and a producer-handler. Another producer-handler is located in the Yuma area and the exempt plant is located in a currently-unregulated Arizona county, and has total route disposition of less than 150,000 pounds. All of the plants that are expected to be fully regulated under this consolidated order are located in areas that contain over 70 percent of the market's population.

Utilization.

According to October 1997 pool statistics, the Class I utilization for the Central Arizona market was 46 percent. Due to restricted information, this calculation excludes receipts for the Las Vegas handler who currently is regulated under Order 139, but would be regulated under this order. Because the degree of consolidation for this market is very minor, little change in the Class I utilization percentage, and thus little change in producer returns, is expected in the Arizona-Las Vegas area as a result of the consolidation. For October 1997, Class I utilization for the

Central Arizona market was 46.3 percent based on the use of 90.8 pounds of producer milk in Class I out of 195.9 total pounds of producer milk. The weighted average use value for the Arizona-Las Vegas market is estimated to be $13.84 per hundredweight.

Other Plants.

For May 1997, 3 supply or manufacturing plants were located within the Arizona-Las Vegas marketing area: 2 in Arizona (both in the Phoenix area) and 1 in Nevada (in the Las Vegas area). One Arizona plant was a pool plant operated by the cooperative, manufacturing primarily cheese, while the other plants were nonpool plants manufacturing primarily Class II products.

Cooperative Associations.

For December 1997, the only cooperative pooling milk under the Central Arizona order was United Dairymen of Arizona, which represented over 90 percent of the milk pooled under the Central Arizona order. Security Milk Producers Association, a cooperative based in California, supplies milk to the Las Vegas handler.

Criteria for Consolidation.

Market data indicate that there are sales into the Las Vegas area by Central Arizona pool plants, and sales by both Phoenix and Las Vegas handlers into the unregulated areas along the southern part of the Nevada-Arizona border. Rapid population growth in the area between the two areas has greatly increased competition between the handlers in Phoenix and Las Vegas. In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California. At the same time, the strength of the earlier relationship between the Las Vegas area and Utah clearly has declined since the merger of the Lake Mead and Great Basin order areas in 1988, which was based on data compiled up to 1986.

The Grand Canyon serves as a natural barrier in northwestern Arizona between this area and Great Basin. Although the actual consolidated order area extends to the Utah border, the portion of Arizona between the Grand Canyon and Utah is very sparsely populated, and is included in the consolidated marketing area primarily for the purpose of simplifying the marketing area description and easing handlers' burden of reporting out-of-area sales. The Colorado River forms much of the western boundary with California and Nevada. A north-south strip along the eastern edge of Arizona constituting approximately 30 percent of the State's territory is very sparsely populated, containing just over 5 percent of the population of the consolidated marketing area. This lightly populated desert area can be seen as another form of natural barrier to the movement of bulk and packaged milk.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the Central Arizona marketing area and the southern Nevada portion of the Great Basin order area included retaining the Las Vegas area with the rest of the current Great Basin order area in the consolidated Western marketing area.

Twelve comments that pertained specifically to the proposed Arizona-Las Vegas area were filed by 10 commenters in response to the proposed rule. Anderson Dairy in Las Vegas advocated that Clark County, Nevada, in which Las Vegas is located, be left out of any consolidated marketing area to better enable Anderson to compete with milk distributed from California and from the Salt Lake City area. Two comments from the Nevada Dairy Commission, suggesting that prices could be set within the State, and from a U.S. Senator from Nevada, requested that Clark County be excluded from any Federal order marketing area. Security Milk Producers Association, a cooperative that supplies milk to Anderson, first filed a comment supporting the proposed Arizona-Las Vegas area, and then filed a later comment urging that if Clark County cannot be deregulated and California does not become a Federal order, Clark County should be reunited with the rest of the consolidated Western order area. A commenter in the southern Nevada dairy industry supported the cooperative’s view.

A comment from DFA suggested that the Great Basin marketing area be consolidated with the proposed Arizona-Las Vegas area rather than the proposed Western area, arguing that the price/utilization relationships of the Great Basin area are more similar to the Arizona-Las Vegas area than to the rest of the Western area. Darigold, Inc., urged that Las Vegas be reunited with Utah due to its proximity to the major production areas in Utah. Darigold suggested that if there is a linkage between the Phoenix and Las Vegas markets, those areas both should be included in the Western area.

A comment filed by the American Farm Bureau Federation recommended that the consolidation of the Central Arizona and Clark County areas be reconsidered in favor of a return to the consolidation of the Central Arizona area with the Southwest area, suggested in the Initial Preliminary Report on Order Consolidation.

A comment filed by the Dairy Institute of California supported the consolidation of the Las Vegas area with Arizona because such a combination would eliminate competitive distortions between these areas and California caused by the Las Vegas raw milk price levels. The Utah Farm Bureau stated that it does not oppose removing the Clark County, Nevada, area from the Great Basin order area and combining it with Arizona.

An increase in sales by Central Arizona pool plants into the Las Vegas area, and increased sales by both Phoenix and Las Vegas handlers into the unregulated area of rapidly-increasing population along the southern part of the Nevada-Arizona border, are factors that have greatly increased overlapping route distribution in these two areas. Mohave County, Arizona (currently-unregulated), and Clark County, Nevada, are two of the fastest-growing areas in the United States in terms of population. These two counties adjoin each other in southern Nevada and northwestern Arizona, and both are increasing in population significantly faster than the growth rates for their states. From 1990 to 1997, a period during which the population of the United States increased by 7.6 percent, the population of Arizona increased by 24.3 percent, while Mohave County's population increased by 37.8 percent. Over the same period, Clark County, Nevada, experienced a population increase of 49.2 percent, while the Nevada population increased by 39.5 percent. The rapidly-growing area between Phoenix and Las Vegas represents a growing market which can be expected to be served by both of the major population centers.

Ninety-five percent of the route dispositions of handlers who would be regulated under this order were distributed within the consolidated marketing area in October 1997, and approximately the same percentage of route disposition within the marketing area was by handlers who would be regulated under this consolidated order. Similarly, over 95 percent of the milk pooled under the current Central Arizona order is produced within the marketing area, and there is no indication of movements of producer milk between Utan and Nevada, as was the case when the Great Basin and Lake Mead orders were merged.

In addition, both areas exchange significant volumes of bulk and packaged milk with Southern California, a relationship that does not pertain to any of the other areas in the region. The Las Vegas area's earlier relationship with southern Utah was based primarily on Utah as an important milk supply area for Las Vegas at the time of the merger of the Lake Mead and Great Basin order areas in 1988. That relationship clearly has ceased to exist. Therefore, the assertion by commenters that the Las Vegas, Nevada, area should continue to be included in the same marketing area with Utah or be unregulated does not reflect current marketing conditions.

WESTERN.

The consolidated Western marketing area is comprised of the current Southwestern Idaho-Eastern Oregon (Order 135) and Great Basin (Order 139) marketing areas, less one Nevada county (Clark) in Order 139 that is added to the Arizona-Las Vegas marketing area. There are 67 counties in this consolidated area. The Western Colorado (Order 134) marketing area, proposed to be part of the Western consolidated area, was changed to become part of the Central consolidated area.

Geography.

The Western market is described geographically as follows: 28 counties in Idaho (18 currently in Order 135 and 10 in Order 139), 3 in eastern Nevada (all currently in Order 139), 5 in eastern Oregon (all currently in Order 135), all counties (29) in Utah (currently in Order 139) and 2 in the southwest corner of Wyoming (currently in Order 139). Measuring the extreme dimensions, this market extends about 625 miles north to south from Oregon and Idaho to Utah's boundary with Arizona. This market's east-to-west dimension is approximately 550 miles from the westernmost edge in central/eastern Oregon to the easternmost edge o the Utah/Colorado border.

The consolidated Western marketing area is contiguous to four of the consolidated marketing areas, the Pacific Northwest to the west and north of the Oregon portion of this market, Arizona-Las Vegas to the south, the Central market on the east, and the Southwest to the extreme southeast corner. Non-Federally regulated territory borders the Western market on the west-southwest (Nevada) and the north-northeast (Idaho and Wyoming).

In terms of physical geography, the Western marketing area has several regions: the Columbia Plateau in southern Idaho and northeastern Nevada, characterized by fertile soils; the Great Basin in southeast Idaho, nearly all of Nevada and the western third of Utah, described by ranges and parallel valleys; and the Colorado Plateau in the eastern half of Utah, characterized by gorges. In general, the Western market is quite dry, with temperatures tending to be extreme and affected by elevation.

Population.

According to July 1, 1997, population estimates, the total population in the consolidated marketing area is 3.2 million. Using Metropolitan Statistical Areas (MSAs), the largest population center is the Salt Lake City-Ogden, Utah area (Salt Lake City). Salt Lake City is located in north central Utah. The Boise City, Idaho, area (Boise), the second largest population center in this marketing area, is located about 300 miles to the northwest of Salt Lake City. Provo-Orem, Utah, (Provo) the third largest population center, lies 40 miles south of Salt Lake City. Forty percent of the market's population is in the Salt Lake City area, and over 60 percent is accounted for when Boise and Provo are added.

Fluid Per Capita Consumption.

Based on the population figure of 3.2 million and an estimated per capita fluid milk consumption rate of 23 pounds of fluid milk per month, total fluid milk consumption in the Western marketing area is estimated at 73.6 million pounds per month. Plants that would have been fully regulated distributing plants in the Western order had route disposition within the market of 74 million pounds in October 1997; approximately 80 percent of this total is from Order 139 pool plants. The 7 producer handlers operating during this month had a combined route disposition of 1.6 million pounds. Additionally, 1.1 million pounds of route disposition came from other order plants, with about .5 million from partially regulated handlers and exempt plants.

Milk Production.

In October 1997, over 457 million pounds of milk was associated with the Great Basin and Southwestern Idaho-Eastern Oregon markets, but only 304 million pounds of this milk was pooled because of class price relationships. The 457 million pounds of milk were produced by 952 dairy farmers located in 51 counties in California, Idaho, Nevada, Oregon, Utah and Wyoming. Over 95 percent of the milk associated with the market was produced within the marketing area. Four counties produced more than 50 percent of the milk available to be pooled. The three top producing counties in Idaho, Jerome, Gooding and Twin Falls counties, are all located in southwestern Idaho, about 130 miles southeast of Boise and 230 miles northwest of Salt Lake City. Jerome and Gooding counties each provided approximately twice as much milk as Twin Falls County, the third-largest county in terms of milk production in the Western market. The fourth-largest production county was Cache County in northeastern Utah, located about 80 miles north of Salt Lake City.

The three Idaho counties, part of the marketing area of the current Southwestern Idaho-Eastern Oregon order, are the top three milk-producing counties for Order 135 and among the top seven milk-producing counties for Order 139 in October 1997. Five counties in the current Southwestern Idaho-Eastern Oregon marketing area supplied one-quarter of the milk associated with the Great Basin order in October 1997.

Distributing Plants.

Using the distributing plant list included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 25 distributing plants would be expected to be associated with the Western marketing area, including 11 fully regulated distributing plants (all currently pool plants), 2 partially regulated (currently partially regulated), 1 exempt plant based on size (currently a pool plant), 7 producer-handlers, and 4 exempt plants based on institutional status (all were exempt as defined under current federal orders). Since October 1997, it is known that 2 distributing plants (1 fully regulated and 1 exempt plant) in Utah and 1 producer-handler in Arizona have gone out of business.

There would be 9 distributing plants in the Salt Lake City area (5 pool plants, 2 producer-handlers and 2 exempt plants). The Boise area would have 2 pool distributing plants, the Provo area would have 1 exempt plant and the Pocatello area would have 1 pool plant. The remaining 12 distributing plants are located in Idaho (4 plants: 2 pool, 1 exempt, and 1 producer-handler), Nevada (1 partially regulated plant), and Utah (7 plants: 1 pool, 1 partial, 1 exempt, 4 producer-handlers).

Fully regulated distributing plants are located in MSAs containing about half of the consolidated market's population, including the Pocatello, Idaho, MSA, with 2.2 percent of this market's population.

Utilization.

According to October 1997 pool statistics, the Class I utilization percentages for the Southwestern Idaho-Eastern Oregon and Great Basin markets were 16 and 41 percent, respectively. Based on calculated weighted average use values for (1) the current order with current use of milk, and (2) the current order with projected use of milk in the consolidated Western order, the potential impact of this market consolidation on producers who supply the current market areas is estimated to be an 11-cent per cwt increase (from $12.92 to $13.03) for Southwestern Idaho-Eastern Oregon, and a 9-cent per cwt decrease (from $13.25 to $13.16) for Great Basin. The weighted average use value for the consolidated Western order market is estimated to be $13.14 per cwt. For October 1997, combined Class I utilization for Orders 135 and 139 was 32.5 percent based on 98.8 million pounds of producer milk used in Class I out of 304.1 million total producer milk pounds.

A substantial amount of milk was omitted from the Southwestern Idaho-Eastern Oregon pool for October because of unusual price relationships. The annual Class I utilization percentage may be considered more representative for this market. For the year 1997, the annual Class I utilization for Southwestern Idaho-Eastern Oregon was 8.3 percent. It is estimated that the Class I use percentage for the consolidated market would be about 23 percent.

Other Plants.

Eighteen supply or manufacturing plants were located within the consolidated Western marketing area during May 1997: 8 in Idaho (3 in the Boise area), 9 in Utah (2 in the Salt Lake City area) and 1 in Wyoming. Two of the 18 plants were pool plants; both manufacture primarily cheese. Of the 16 nonpool plants, 12 manufacture primarily cheese and 5 manufacture primarily soft or Class II products (including ice cream). Of the 8 Idaho plants, all but one manufacture cheese, while of the 9 Utah plants, 6 manufacture cheese and 3 manufacture soft products.

Cooperative Associations.

For December 1997, four cooperatives representing 77 percent of the milk pooled under the two orders had membership in the consolidated Western marketing area. Western Dairymen Cooperative, Inc., a cooperative association that became part of Dairy Farmers of America, Inc., had membership in both the Southwestern Idaho-Eastern Oregon and Great Basin marketing areas. Magic Valley Quality Milk Producers, Inc., also had membership in Orders 135 and 139; Darigold Farms had membership in Order 135, and Security Milk Producers' Association had membership in Order 139.

Criteria for Consolidation.

The consolidated Western market is composed of the current marketing areas of the Southwestern Idaho-Eastern Oregon and Great Basin markets, minus the Clark County, Nevada, portion of the Great Basin area. Sales overlap exists between Southwestern Idaho-Eastern Oregon and Great Basin, as well as a significant overlap in procurement for the two orders in Idaho. The two orders also share similar multiple component pricing plans. The Western Colorado order, proposed for inclusion in the Western area, was shown on the basis of October 1997 data to have developed a closer relationship with the Eastern Colorado area than with the Great Basin order, and has been included in the consolidated Central area instead of the Western area.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the consolidation of the Southwestern Idaho-Eastern Oregon, Great Basin (minus Clark County, Nevada) and Western Colorado marketing areas that were considered included leaving the Southwestern Idaho-Eastern Oregon area as a separate order and consolidating the Great Basin market with the Central Arizona, Western Colorado, and Eastern Colorado marketing areas, leaving both the Southwestern Idaho-Eastern Oregon and Great Basin areas as separate order areas, and combining the Western Colorado area with the Eastern Colorado area and other areas to the east. These alternative consolidations were examined at length and found to be less appropriate than the marketing areas delineated in the proposed rule in terms of overlap of either fluid milk product disposition or producer milk movements.

Fifteen comments that pertained specifically to the proposed Western marketing area were filed by 12 commenters in response to the proposed rule. Several of these comments objected to the separation of the Las Vegas area from the Great Basin portion of the Western area. These comments are addressed in the discussion of comments and alternatives considered for the consolidated Arizona-Las Vegas area.

Comments filed by Dairy Farmers of America, Southern Foods Group, and a western Colorado dairy farmer advocated consolidating the Western Colorado order area with the consolidated Central area instead of the Western area. DFA’s comment stated that the Western Colorado milkshed is more similar to the Central area than to the Western area. The comments filed by Southern Foods Group and the dairy farmer expressed concern about an expected reduction in the blend price paid to producers supplying the Western Colorado area.

October 1997 data show an increased relationship between Western Colorado and Eastern Colorado, and reduced milk movements between Western Colorado and Great Basin. On the basis of the change in the relationships between Western Colorado and its two nearest neighbor order areas, the Western Colorado area should become part of the consolidated Central area instead of the Western area.

Five Farm Bureau organizations (Michigan, Utah, Iowa, Ohio and American), a Pennsylvania producer and Dairy Farmers of America filed eight comments opposing the consolidation of the Southwestern Idaho-Eastern Oregon order area with the Great Basin marketing area. One DFA comment suggested combining Utah with the Arizona-Las Vegas area instead of with Idaho. A primary basis for opposition to the consolidation is the disparity in the two regions’ utilization of Class I fluid milk: the Southwestern Idaho-Eastern Oregon order has a very low percentage of Class I use, which varies from less than 10 percent to over 20 percent, while the Great Basin order's Class I use percentage is higher at about 35 percent. Commenters fear that the consolidation of these orders would result in lower returns to producers who currently are pooled under the Great Basin order. Most of the comments suggest that the Southwestern Idaho-Eastern Oregon marketing area should remain under a separate order.

A major source of milk production for both the Southwestern Idaho-Eastern Oregon and Great Basin orders is a 5-county area located within the Federal order 135 marketing area, supplying one-quarter of the milk pooled on the Great Basin order in October 1997. The Southwestern Idaho-Eastern Oregon area should be consolidated with some other order area because of the small number of handlers pooled under the order, and this close relationship with Great Basin makes that consolidation the only viable possibility.

PACIFIC NORTHWEST.

The Pacific Northwest marketing area is comprised of the current Pacific Northwest (Order 124) marketing area and one currently-unregulated county in southwest Oregon. There are 75 counties in this marketing area. This area remains unchanged from the proposed rule.

Geography.

The Pacific Northwest market is described geographically as follows: All counties (39) in Washington, 30 counties in Oregon (29 currently are part of Order 124 and one, Curry County, is unregulated) and six counties in northwestern Idaho. The market extends about 490 miles north-to-south from Washington's northern border with the Canadian province of British Columbia to Oregon's southern border with California and Nevada. East-to-west, the market ranges from about 450 miles in the northern half of the market (covering territory from Washington's western boundary with the Pacific Ocean to the eastern border of Idaho with Montana) to about 250 miles in the southern half of the market (covering approximately two-thirds of Oregon from the state's western border with the Pacific Ocean to central Oregon).

The Pacific Northwest marketing area is contiguous with the consolidated Western Federal order marketing area in eastern Oregon. The remainder of the marketing area is surrounded by currently non-Federally regulated areas (California and northwestern Nevada to the south and Montana, Idaho, and one northeastern Oregon county to the east), political boundaries (Canada to the north), and the Pacific Ocean to the west.

Along the Oregon and Washington coasts lies the Coast Range. The Cascade Range is located further inland in both states. Both ranges are north-south in direction, and the Cascade Range effectively divides both states into two distinct climates: a year-round mild, humid climate with abundant precipitation predominates in the western part of the states, and a dry climate with little precipitation but greater temperature extremes prevails east of the Cascade Range. The mild climate of the western portion results in longer growing seasons. The Columbia River flows south through eastern Washington, turns west, and becomes the western two-thirds of the border between Oregon and Washington. The portion of Idaho included in the Pacific Northwest marketing area is within the Rocky Mountains. This area has a generally continental climate with the higher elevations having long and severe winters.

Much of the area is conducive to the production of milk and many other agricultural commodities. Although dairy products ranked 2nd among receipts of agricultural commodities in the State of Washington in 1996, and 4th in Oregon, they accounted for only 13.8 percent and 7.9 percent, respectively, of such receipts. Apples (in Washington) and greenhouse/nursery, wheat, and cattle and calves (in Oregon) ranked ahead of dairy, accounting for 19.8 percent and 33.8 percent, respectively, of agricultural commodity receipts.

Population.

According to July 1, 1997, population estimates, the total population in the marketing area is 9 million. Seventy-seven percent of the marketing area population is located in Metropolitan Statistical Areas (MSAs). The two largest MSAs are located on the western side of the Cascade Range. The Seattle-Tacoma-Bremerton (Seattle) area, with a population of 3.4 million (37.6% of the marketing area population), is in northwestern Washington. Over seventy percent of the population of the State of Washington is located west of the Cascade Mountains, in the western third of the State. Another 14.5% of the State's population is contained in 3 MSA's east of the Cascades.

The Portland-Salem (Portland) area in northwestern Oregon is located on the Oregon-Washington border, with Portland just south of the Columbia River. The population of this MSA is 2.1 million, or 23.6% of the marketing area population. Ninety percent of the population of Oregon is concentrated in the western one-third of the State, or in the western half of the Oregon portion of the marketing area.

Fluid Per Capita Consumption.

Based on the population figure of 9 million and an estimated per capita fluid milk consumption rate of 22 pounds of fluid milk per month, total fluid milk consumption in the Pacific Northwest marketing area is estimated at 198 million pounds per month. For October 1997, plants that would be fully regulated distributing plants under the Pacific Northwest order had route disposition within the market of 170 million pounds. In addition, the 18 producer-handlers operating during this month had a combined route disposition of 18 million pounds. Additionally, slightly over 1 million pounds of route disposition (less than one percent of total route disposition in the marketing area) came from handlers outside the market. Because the handlers associated with this market are able to fulfill the market’s Class I or fluid needs, and because of the somewhat geographic isolation of the market, maintaining the current Pacific Northwest order as a separate market is appropriate.

Milk Production.

In October 1997, the 540 million pounds of milk pooled in the Pacific Northwest market were produced by 1,211 producers located in 57 counties in California, Idaho, Oregon, and Washington. Five counties produced 57 percent of the milk pooled. Four of these counties are in Washington State. They are Whatcom, Skagit, and Snohomish counties, which are less than 100 miles north of Seattle; and Yakima County, which is located in central Washington about 100 miles southeast of Seattle on the eastern side of the Cascade Range. The fifth county is in Oregon. It is Tillamook County, which borders the Pacific Ocean, about 60 miles west of the Portland area on the western side of the Coast Range.

Less than two percent of the milk pooled in the Pacific Northwest was produced outside of the marketing area, in Idaho and California. The largest portion is from producers in two northern California counties who pooled nearly 6 million pounds of milk or 89.8 percent of the pooled milk produced outside the Pacific Northwest marketing area.

Distributing Plants.

Using distributing plant lists included in the proposed rule, with the pooling standards adjusted to 25 percent of route disposition as in-area sales, updated for known plant closures through December 1998, 35 distributing plants would be expected to be associated with the Pacific Northwest market, including 19 fully regulated distributing plants (all currently fully regulated), 2 partially regulated plants, 4 exempt plants (below 150,000 pounds in total route disposition), and 10 producer-handlers. It is known that 3 distributing plants (all producer-handlers) have gone out of business since October 1997.

There are 11 distributing plants within the Portland area, including 7 pool plants, 2 exempt plants and 2 producer-handlers. The Seattle/Tacoma MSAs have 4 pool plants, 1 partially regulated plant, and 4 producer-handlers. In addition to these two main population centers, the Spokane, Washington, MSA, located in the eastern area of the state near the Idaho border with a population of 405,000, has 2 pool plants.

Two smaller MSA’s in western Oregon contain 2 pool plants, 1 producer-handler, and 1 plant exempt on the basis of size. Of the 5 distributing plants that would be operating in Oregon outside of MSAs, 3 would be fully regulated, 1 partially regulated, and 1 exempt of the basis of size. All but one, in central Oregon, are located in western Oregon.

One producer-handler is located in a northwest Washington MSA, and 1 pool plant, 2 producer-handlers and 1 partially regulated plant are located in the southeast quadrant of the State of Washington outside any MSA.

Since October 1997, three producer-handlers are known to have gone out of business, two in the State of Washington, and one in Oregon.

Distributing plants fully regulated under the Pacific Northwest order are located in MSAs where 71 percent of the market's population is concentrated.

Utilization.

According to October 1997 pool statistics, the Class I utilization percentage for the Pacific Northwest market was 36 percent. Because this market is to remain separate, expected utilization changes due to the reform process result only from potential changes in plants' regulatory status; thus very little change in producer returns under the Pacific Northwest order is expected as a result of consolidation. For October 1997, Class I utilization for the Pacific Northwest market was 35.6 percent based on 192 million pounds of producer milk used in Class I out of 540 million total producer milk pounds. The weighted average use value for the Pacific Northwest market is estimated to be $13.33 per hundredweight.

Other Plants.

Located within the Pacific Northwest marketing area in May 1997 were 27 supply or manufacturing plants; 12 in Oregon (5 in the Portland area), 15 in Washington (7 in the Seattle area) and none in Idaho. Two of the 27 plants (both in Oregon) were Order 124 pool supply plants, one of which manufactured primarily cheese, and the other nonfat dry milk. Of the 10 nonpool manufacturing plants located in Oregon, 8 manufactured primarily Class II products (including ice cream), 1 manufactured butter, and the other made cheese.

The 15 manufacturing/supply plants located in the State of Washington were all nonpool plants. Three manufactured primarily Class II products, 3 manufactured primarily butter, 2 manufactured primarily powder, and 7 manufactured primarily cheese.

Cooperative Associations.

Five cooperative associations had members in the Pacific Northwest market in December 1997. Darigold Farms is the largest, and the only cooperative that had membership affiliated with another order (Order 135) in December 1997. Other cooperatives in this market are Farmers Cooperative Creamery, Tillamook County Creamery Association, Northwest Independent Milk Producers Association, and Portland Independent Milk Producers Association. These five cooperatives pooled 85 percent of the total producer milk pooled under the Pacific Northwest order in December 1997.

Criteria for Consolidation.

The consolidated Pacific Northwest market adds one currently unregulated Oregon county to the Pacific Northwest milk order. The degree of association of this market with other Federal order marketing areas is insufficient under any criteria to warrant consolidation with any other order areas.

Discussion of Comments and Alternatives.

Prior to issuance of the proposed rule, alternatives to the leaving the Pacific Northwest area as a separate order area that were considered included the consolidation of the current Pacific Northwest, Southwestern Idaho-Eastern Oregon and Great Basin order areas. Because there is virtually no relationship with regard to either overlapping route dispositions or overlapping milk procurement between the Pacific Northwest and Southwestern Idaho-Eastern Oregon milk marketing areas, and none at all with Great Basin, these alternatives were not pursued.

Only two comments pertained specifically to the “consolidated” Pacific Northwest marketing area. Darigold Farms, Inc., commented that the Pacific Northwest marketing area should remain unchanged except for the addition of the one southwestern Oregon county proposed to be added. Darigold stated that the addition of this county would not cause the regulation of any plant. A comment filed by an individual from Utah stated that Idaho should be included in the Pacific Northwest area or be a separate order. As noted before, there is almost no relationship between the Pacific Northwest and Southwestern Idaho-Eastern Oregon marketing areas, and no basis for such a consolidation.