

**United States Department of Agriculture
Agricultural Marketing Service, Dairy Programs**

Market Administrator

**Federal Order No. 6 – Florida Marketing Area
Federal Order No. 7 – Southeast Marketing Area**

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August 29, 2006

TO: Handlers and Interested Parties, Southeast Marketing Area

FROM: Market Administrator, Atlanta, Georgia

SUBJECT: Modifying the Administration of the Producer Milk Definition for the Southeast Marketing Area, Federal Order No. 7

Summary of Action:

The Market Administrator has made a determination to modify the administration of a component of the producer milk definition known as the market association policy. This modification is being made to lessen the administrative burden on handlers supplying the Southeast Marketing Area. Currently, the market association policy requires that a producer must first deliver one day's production to a pool plant prior to becoming eligible to divert milk to nonpool plants and allowed that once established, such association continued until one day's production was not pooled on the Southeast Order. The modification announced herein eliminates the 'delivery before diversion' requirement.

Effective September 1, 2006, a producer will be eligible to divert milk any day of the month provided all other requirements are met. This modification does not change the 4 or 10 day monthly shipping requirement found in Sections 1007.13(d)(1) and (2) nor the maximum diversion limits found in Sections 1007.13(d)(3) and (4) of the ORDER REGULATING THE HANDLING OF MILK IN THE SOUTHEAST MARKETING AREA.

Background:

In April 2005, the following cooperative handlers requested a revision in the administrative application of the producer milk definition in Section 1007.13(d) of the ORDER REGULATING THE HANDLING OF MILK IN THE SOUTHEAST MARKETING AREA: Arkansas Dairy Cooperative Association; Dairy Farmers of America, Inc.; Dairymen's Marketing Cooperative Association, Inc.; Lone Star Milk Producers, Inc.; and Maryland and Virginia Milk Producers Cooperative Association, Inc. The requested change sought to eliminate the requirement that at least one day's production of a dairy farmer be received at a pool plant prior to being eligible for diversion to nonpool plants.

Notice of the proposal was mailed to interested parties and posted on the Market Administrator website. An analysis of the impacts of the proposal was requested by Georgia Milk Producers, Inc., Watkinsville, GA and by Upper South Milk Producers Association, Englewood, TN, both dairy farmer organizations. The analysis was performed and provided to all parties that requested it. The data revealed that if the policy change had been in place between January 2004 and March 2005, and milk previously ineligible for diversion due to the market association policy had been pooled as producer milk, the impact on the uniform blend price would have been a \$0.07 per hundredweight decline on average. The analysis was static in nature, and did not attempt to model changes in pooling behavior, such as reducing inefficient shipments or surmising new producers delivering to the market, had the proposal been in effect.

Comments regarding the proposal were received from Land O'Lakes, Inc. and from Southeast Milk, Inc., both dairy cooperatives with member milk pooled on Federal Order No. 7. Both cooperatives cited the challenges, and sometimes illogical and inefficient milk movements, associated with delivering milk to a pool plant when the first day of the month falls on a weekend or a holiday to meet the administrative application of the producer milk definition. Land O'Lakes offered full support of the proposed changes while Southeast Milk, Inc. agreed some change in the administration of the producer milk definition was warranted, though not supporting the proposal as submitted by the proponents.

Additional comments were received in opposition to the proposal. Georgia Milk Producers, Inc. stated producer pay prices would be adversely affected and an independent producer stated that "disruptions in the marketing conditions" would result if the proposal was adopted.

After reviewing the comments received, and after concerns surrounding the uniformity of proponent support arose, the Market Administrator took no action regarding the proposal, instead allowing additional time for interested parties to conduct further analysis and develop consensus.

Reasons for Action:

In March 2006, all original proponent cooperatives renewed their request for a change in the administration of the producer milk definition. In June 2006, the cooperatives supporting the change represented over 73 percent of producers and supplied nearly 60 percent of the producer milk pooled on Federal Order No. 7. Due to the overwhelming support for the proposal and the continued decline of in-area milk production, the Market Administrator deems it prudent to adopt the proposal to modify the administration of the producer milk definition for Federal Order No. 7.

The producer milk definition (Section 1007.13(d)) is currently administered in the following way: If the producer's previous day production was pooled on the Southeast Order (i.e. the producer had maintained market association), the producer was eligible to divert milk to a nonpool plant, but such milk would only remain eligible for diversion if not less than 4 days' production was physically received at a pool plant during the months of January through June, and not less than 10 days' production was physically received at a pool plant during the months of July through December. If the previous day's production was not pooled on the Southeast Order (i.e. the producer had lost or never established market association), the producer was ineligible to divert milk to a nonpool plant until first delivering one day of production to a pool plant.

Stated differently, a producer has to ‘touch-base’ at a pool plant one day in order to establish association with the market before being able to divert milk to nonpool plants. Such market association continues (1) as long as an entire day’s production of Grade A milk is not withheld from the Southeast Order pool and (2) the producer continues to deliver at least 4 or 10 days during the month. If either of these two standards is not met, the milk of the producer is not eligible for diversion until re-establishing market association by delivering one day’s production to a pool plant.

This application reflects long-standing policy in the administration of Section 1007.13(d) and was utilized to conform order operations to historical Order provisions. Given the request to change this policy from handlers representing well over two-thirds of producers on the market and given that Order provisions have evolved subsequent to the policy’s original implementation, sufficient justification for revision exists. In addition, current and anticipated future marketing conditions make continuing the policy both inefficient and an unnecessary addition to the performance requirements of the Southeast Marketing Area. Removing the need to establish market association prior to being eligible to divert milk will afford greater flexibility to handlers in transporting milk to meet the fluid milk demands of processors.

This modification also better aligns performance standards with the regional trend of declining milk production and the Southeast Marketing Area’s growing dependence on an increasingly large milkshed. Increasingly deficit markets using more distant milksheds require more transportation- and milk balancing-related resources; Federal Order provisions should encourage the orderly and efficient use of those resources. Cooperative handlers and their dairy farmer members balance the fluid milk needs of this market and bear most of the burden when resources are used inefficiently and milk movements lack order. This modification will promote orderliness and efficiency for those balancing fluid milk needs and help ensure the market’s Class I fluid milk demand is met while still maintaining the protections of the current shipping requirements and diversion limits.

Producer milk provisions and administrative procedures evolve over time to address unique market needs and circumstances. Administrative policy changes of this nature do not require a public hearing, but may be made at the discretion of the Market Administrator.

Direct questions or comments to the Atlanta Market Administrator’s office at 770-682-2501.

A handwritten signature in black ink that reads "Sue L. Mosley". The signature is written in a cursive, flowing style with a large initial 'S'.

Sue L. Mosley
Market Administrator

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August 21, 2003

SUBJECT: Addendum to Attached Memorandums, Policies and Guidance

The Atlanta MA office moved to a new location effective July 21, 2003. The attached memorandum will have the office letterhead with the location from which it was originally issued.

The attached memorandum concerning policies and guidance is currently still in effect.

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Guidelines for Qualifying Diverted Milk as Producer Milk
Federal Order No. 7, Southeast Marketing Area

Daily Delivery Requirements (see 7 CFR §1007.13(d)(1)&(2))

A producer's milk must be physically received at pool plant(s) for the equivalent of not less than four (4) days^{1/} production for the months of January through June and not less than ten (10) days^{1/} production for the months of July through December in order for diverted milk from that farm to nonpool plants to be qualified as producer milk. This can be accomplished by either taking all of the production for any four or ten days of the month (**as long as market association has been established - see market association guidelines**) and delivering said production to qualified pool plant(s), or by ensuring that the equivalent of four or ten full days production (based on a daily simple average) for that month has been received by the qualified pool plant(s).

Examples

For the month of April, in order to qualify any diversions of a producer with production for the pooling month of 4,800,000 pounds (or a daily average of 160,000 pounds for a thirty day month), the producer's milk must be delivered to Federal Order 7 pool plant(s) for 4 actual days of production or equivalent deliveries of 640,000 pounds.

For the month of September, in order to qualify any diversions of a producer with production for the pooling month of 4,800,000 pounds (or a daily average of 160,000 pounds for a thirty day month), the producer's milk must be delivered to Federal Order 7 pool plant(s) for 10 actual days of production or equivalent deliveries of 1,600,000 pounds. ***Please note that when diversion decisions are being made it may not be known what the actual production for a particular producer will be for the month. This is particularly true if a farmer's production has increased from previous months due to an increase in herd size. It is prudent to error on the side of caution when determining the amount to be delivered to pool plants in order to qualify diversions.***

Percent Limitations (see 7CFR §1007.13(d)3)&(4))

The total quantity of milk diverted to nonpool plants during the month by a **cooperative association** shall not exceed 33%^{1/} during the months of July through December, and 50%^{1/} during the months of January through June, of the producer milk that the cooperative association caused to be delivered to, and physically received at, pool plants during the month.

The **operator of a pool plant that is not a cooperative association** may divert to nonpool plants any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to 7CFR §1007.13(d). The total quantity of milk so diverted during the month shall not exceed 33%^{1/} during the months of July through December, and 50%^{1/} during the months of January through June, of the producer milk physically received at such plant (or such unit of plants in the case of plants that pool as a unit pursuant to 7 CFR §1007.7(e)) during the month, excluding the quantity of producer milk received from a handler described in 7 CFR §1000.9(c).

Producers With Multiple Tanks - For purpose of meeting the delivery day requirements, a farm location with multiple tanks is considered one production unit.

Producers Who Own Multiple Farms - For purpose of meeting the delivery day requirements, each farm location will be considered as a separate unit.

^{1/} The delivery day requirements and percent limitations may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. If you are not sure what the current delivery day requirements are in Federal Order Nos. 6 or 7, please contact the Market Administrator office at (770)448-1194.

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Guidelines for Establishing and Maintaining Market Association
for the Purpose of Qualifying Diversions

Federal Order No. 6, Florida Marketing Area
Federal Order No. 7, Southeast Marketing Area

To establish market association on either Federal Order 6 or 7, the *equivalent* of a full day's production for a producer must be delivered to one or more pool plants regulated by that Federal Order. ***Market association must be established separately for each Order.*** This can be accomplished by either taking all of the production for one day and delivering said production to pool plant(s), or by adding partial daily deliveries to pool plant(s) until at least the equivalent of a full days production (based on a daily simple average) has been received by the pool plant(s). When using the equivalent day method, any milk that is diverted prior to achieving at least the equivalent full day production level in a particular market will not qualify for pooling.

A producer will maintain market association on either Federal Order No. 6 or 7 provided that an entire day's production (meaning a physical day, not an equivalent day) is not pulled from the market and delivered to a plant or outlet not participating in the pool for that Order. ***Market association must be maintained separately for each Order.*** If the production for an entire day goes to a plant or outlet not participating in the pool for that Order, the producer will need to re-establish association before again being allowed to divert.

In the case of a producer who has multiple pickups, one full pickup delivered to a pool plant regulated on that Order will re-establish the association. Milk degraded by a state certified laboratory will not count towards losing association with a market.

Example

A producer with four pick-ups per day for a daily average of 160,000 pounds per day can initially qualify on the market by delivering an entire day's production to pool plant(s) (all four pick-ups) or by accumulating at least the equivalent of 160,000 pounds of deliveries to pool plant(s). If market association is accomplished by delivering an entire production day, the pounds would not necessarily have to equal the 160,000 pound daily average. Once the producer establishes association with the market, association will be maintained as long as an entire day's production (all four loads) is not delivered to a plant or outlet not associated with the marketing area.

If the producer loses association, re-association may be established by delivery, within the same month, of one pick-up (approximately 40,000 pounds assuming the pick-ups are equal) to pool plant(s). In the case of a 160,000 pound per day producer, the delivery of a token amount of milk (in this case, something far less than 40,000 pounds) would not be enough to re-establish association with the market.

By using the equivalent method, it is possible for a large producer with more than one tank to qualify on more than one Order. This could be done by meeting the delivery day requirements on both Order 6 and 7 (**see guidelines for qualifying diverted milk as producer milk**) while maintaining market association at all times in both Orders. *It should be noted, however, that the same milk may not be pooled on more than one Order.*

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Producers With Multiple Tanks

For purposes of market association, a farm location with multiple tanks is considered one production unit. The only exception to this is when a producer loses market association. One full pick up delivered to a pool plant regulated on the Order may be used to re-establish association with the market.

Producers Who Own Multiple Farms

For purposes of market association, each farm location will be considered as a separate unit.