

recognizing the value of milk at location, and recognizing handler equity with regard to raw product costs. The witness expressed the opinion that these outcomes were not anticipated by the Department.

The DFA witness drew from the Final Decision on milk order reform which detailed how milk marketing orders should pool milk and for identifying those producers whose milk should be eligible for pooling in the consolidated orders. In this regard, the witness particularly noted the Department's rejection of "open pooling" and that pooling provisions be performance oriented. According to the witness, the lack of pooling provisions that are sufficiently performance oriented result in volumes of "distant" milk pooled on orders that do not and would not ever perform any reasonable and consistent servicing of the Class I needs of a market in a manner similar to "local" milk. The witness asserted that inadequate performance standards have lowered producer blend prices and have caused the type of disorderly marketing conditions intended to be avoided by the Class I price structure criteria cited above.

The DFA witness concluded Proposals 2 and 9 are justified because their adoption would more appropriately link milk value and where milk is located relative to a market. According to the witness, these proposals are also superior to the adoption of other proposals (Proposals 1 and 10) because those proposals are aimed solely at eliminating or preventing double dipping. DFA asserted that Proposals 2 and 9 provide: (1) appropriate recognition to the concept of a marketing area where handlers compete for the majority of their Class I sales and the importance of performance as a condition for having milk eligible for pooling, (2) a measurable economic outcome consistent with Federal milk marketing order principles which do not prohibit pooling milk if the economics for doing so are positive, and (3) an adequate and reasonable safeguard for low Class I utilization markets in which lower diversion limits or higher performance standards for supply plants might otherwise cause hardship.

A NDA witness indicated an initial lack of understanding on the ramifications of Proposals 2 and 9 and expected to articulate a position in post-hearing briefs. The witness did express dissatisfaction on how milk order reform addressed the location value of milk and its relationship to pooling provisions in general. In their post-hearing brief, NDA indicated that they

can support adoption of Proposal 9. However, NDA viewed Proposal 9 as having limited usefulness. With regard to Proposal 2, NDA's brief concluded that a State-unit pooling approach for out-of-area milk was not appropriate for the Pacific Northwest order because it does not adequately address the issue of double dipping. The brief was of the opinion that other proposals under consideration in another rulemaking proceeding for the Pacific Northwest order were more appropriate for that marketing order.

A witness representing River Valley testified in support of Proposal 9. The witness was of the opinion that local producer milk should not be used as a basis for qualifying distant milk for pooling on the order. The witness testified that the milk of producers from outside the market should be expected to meet the pooling standards of the order in the way local milk does as a condition for receiving the order's blend price.

Opposition to Proposal 9 was presented by Glanbia and Davisco. The Glanbia witness viewed the proposal as being designed to build barriers to market entry by dairy farmers located in and out of the Western order milkshed who otherwise may be attracted to pool their milk on the Western order.

The record does not support the adoption of performance standards for pooling milk on the Pacific Northwest or Western orders on the basis of its location or as the proponent and supporters of Proposal 2 and 9 describe as State-units. The marketing conditions of the Pacific Northwest and Western orders do not exhibit the need to require additional performance standards for milk located outside of the marketing area beyond those adopted in this decision. Accordingly, all plants, regardless of location, may become eligible to have the milk of producers pooled on the Pacific Northwest and Western orders by meeting the performance standards specified for the various types of pool plants.

It is not important who provides the milk for Class I use or from where this milk originates. The order boundaries of the Pacific Northwest and Western orders were not intended to limit or define which producers, which milk of those producers, or which handlers could enjoy the benefits of being pooled on those orders. What is important and fundamental to all Federal orders, including the Pacific Northwest and Western orders, is assuring an adequate supply of milk to meet the market's fluid needs, the proper identification of those producers who supply the market, and an equitable means of compensating

those producers from the market's pool proceeds.

A significant portion of the testimony received at the hearing implicated the current Class I price structure as an important factor that has caused the inappropriate pooling of milk across the Federal order system including the Pacific Northwest and Western orders. The current price structure was faulted specifically as not providing appropriate location adjustments for milk as had been the case prior to the implementation of milk order reform.

Testimony indicated that the lack of location adjustments effectively undermines the pooling standards of the order. The decision to pool milk was once based on the economics of transporting milk—comparing the costs of transporting milk to the benefit of receiving the order's blend price. Testimony indicates this factor is as important as the pooling standards of the order. Critics of the Class I pricing structure were of the opinion that placing a relative value on milk based on its distance from the market provides appropriate pooling discipline and fosters orderly marketing conditions.

The reform of milk orders, contained in the Recommended Decision (63 FR 4802) and Final Decision (64 FR 16026), made purposeful changes to the Class I pricing structure. In this regard, a fixed adjustment for Class I milk prices was provided for every county location in the 48 contiguous states to create a national Class I pricing surface for the system of milk marketing orders. Changing this characteristic of the pricing structure ensured handlers that regardless of the marketing order by which regulated, the applicable prices they are charged would be the same.

Such changes made a more clear distinction between the value milk has at location and the pooling standards of any individual marketing order. Location adjustments were never a part of the pooling standards of the Pacific Northwest and Western orders or any other milk marketing order. Instead, location adjustments were an integral part of the pricing provisions of the order. However, it is acknowledged that how location adjustments were applied tended to strengthen the effectiveness of the order's pooling standards. Pooling standards have always established the criteria for pooling milk on the order and continue to do so in the consolidated milk marketing orders. With the Class I price surface adopted by order reform, more direct reliance is placed on pooling standards to identify the milk that should be pooled on the order.