

were pooling the maximum amount of milk allowed in the pre-reform orders, approximately 400 million pounds of milk per month would no longer be pooled on the Central order. Instead, the witness testified, this milk would be pooled on the Upper Midwest order. The witness maintained that this would increase the blend price differences between the two orders.

According to the Foremost witness, the blend price differences would have ranged between 32 cents per hundredweight (cwt) to as much as 91 cents per cwt for the one-year period of September 2000 through August 2001 if the pooling standards proposed had been in effect during that time. The witness emphasized this would have had an enormous adverse effect on the net income of Upper Midwest producers.

An Upper Midwest Cooperatives' witness from Family Dairies testified in opposition to pooling provision amendments that would limit the ability to pool milk on the Central Order and result in lower blend prices to producers located in the Upper Midwest. The witness stated that adoption of such proposals would result in creating more regional pricing problems and give selected handlers the ability to use the blend price as a procurement tool in areas outside the Central Order.

A witness for Lakeshore joined other Upper Midwest Cooperatives' witnesses by also stating their concern that the proposed pooling changes specifically in Proposals 1, 3, 5, and 7 (Proposals 3, 5, and 7 are discussed later in this decision) could force milk currently pooled on the Central order to instead be pooled on the Upper Midwest order. According to the witness, this would result in decreasing producer returns for those dairy farmers located in Northern Illinois and the surrounding area. Specifically, the Lakeshore witness explained that while a fluid milk plant at Rockford, Illinois, and a Dubuque, Iowa, distributing plant have the same federal order-dictated Class I price, the Rockford plant is disadvantaged because it has to pay a higher competitive value to attract Class I milk, adversely impacting their northern Illinois businesses.

A witness from LOL emphasized the necessity of basing pooling provisions on performance in serving the Class I needs of the market rather than the location of where milk originates. The witness was also of the opinion that the current order provisions provide adequate incentives to service Central order distributing plants. Stating that producers who share in the pool must

be willing to serve the market, the LOL witness nevertheless stressed that the ability to pool milk on the Central order pool should not be restricted for the benefit of a select few. The LOL witness testified that milk no longer pooled on the Central order would instead be pooled on adjoining milk orders such as the Upper Midwest or Western marketing areas and characterized these areas as already carrying a disproportionate volume of reserve milk.

In response to concerns that Central order Class I handlers are having difficulty in obtaining a supply of milk, the LOL witness provided an analysis which suggested that tightening pooling provisions would not achieve what the proponents of Proposal 1 assert. The witness estimated that adopting the proposed pooling provisions would result in an increase of 35 cents per cwt in the Central Order blend price.

According to the witness, such an increase would still leave the Central order blend price \$1.48 per cwt below the blend price of the Southeast order thus weakening the argument that the higher blend price would mitigate the problem of Central order distributing plants securing a supply of milk.

The LOL witness asserted that the combination of Proposals 1, 3, 5, and 7 would place unreasonable restrictions on milk produced outside the marketing area relative to milk produced inside the marketing area. The witness indicated that supply plants located outside the marketing area would be required to receive milk and transfer it to distributing plants, thereby causing uneconomic movements of milk, adding costs and degrading milk quality due to additional handling. Furthermore, barriers to trade would be created by adopting these proposals, indicated the witness.

Two of the Upper Midwest Cooperatives' witnesses introduced cost-of-production studies conducted by universities indicating that dairy farmers in northern Illinois and Wisconsin enjoy little financial return from their dairy operations. The Foremost witness cited the Wisconsin study to indicate that in Wisconsin the marginal return of producing milk can be less than zero. According to the witnesses, the financial impact by limiting participation in the Central order pool through increased performance standards would be detrimental to Upper Midwest dairy farmers. In this regard, all of the Upper Midwest Cooperatives' witnesses stressed that their member producers are considered small businesses pursuant to the Regulatory Flexibility

Act and that such status should be considered in determining appropriate performance standards for the Central order.

The witnesses for A-E and Suiza testified in opposition to considering supply plant shipments to distributing plant "units" as counted in determining pool-qualifying deliveries unless each plant of the "unit" could independently be a distributing plant under the terms of the order. The witness noted that relatively large non-Class I volumes of milk associated with a distributing plant unit could result in reducing the actual need for qualifying shipments made to distributing plants. In post-hearing briefs, Dean Foods indicated opposition to expanding qualifying shipments to any plant that is part of a distributing plant unit, noting that such performance standards would be inequitable and result in the creation of new disorderly marketing conditions.

The record of this proceeding strongly supports the conclusion in the tentative decision that the various features of the Central milk marketing order's supply plant pooling standards were either inadequate or unnecessary. These deficiencies contained in the pooling standards for supply plants were causing much more milk to be pooled on the Central milk order than could reasonably be considered as properly associated with the Central marketing area. Such milk does not demonstrate reasonable levels of performance necessary to conclude that it provides a regular and reliable service in satisfying the Class I milk demands of the Central marketing area.

The pooling standards of all milk marketing orders, including the Central order, are intended to ensure that an adequate supply of milk is supplied to meet the Class I needs of the market and to provide the criteria for identifying those who are reasonably associated with the market as a condition for receiving the order's blend price. The pooling standards of the Central order are represented in the *Pool Plant*, *Producer*, and *Producer milk* provisions of the order. Taken as a whole, these provisions are intended to ensure that an adequate supply of milk is supplied to meet the Class I needs of the market. In addition, it provides the criteria for identifying those whose milk is reasonably associated with the market by meeting the Class I needs and thereby sharing in the marketwide distribution of proceeds arising primarily from Class I sales. Pooling standards of the Central order are based on performance, specifying standards that, if met, qualify a producer, the milk of a producer, or a plant to share in the