

payment to cover the producer's authorized deductions. The witness noted that the existing \$1.00 per hundredweight premiums above minimum order prices enjoyed by Central order producers are probably adequate to cover any overpayments made to producers.

Data provided by the DFA, *et al.*, witness sought to indicate that since order reform on January 1, 2000, the amount of the partial payment received by producers relative to the total payment for milk each month has been reduced when compared to the pre-reform orders. The analysis consisted of approximating a weighted average blend price as a proxy for a comparable order from the pre-reform order's information. The analysis, explained the witness, is a comparison of the current month's blend price with the lowest of the two lower class prices of the prior month. For the entire 56-month period, the witness stated, the average of the blend price minus the lowest class price was \$1.59; the first 36 months the average was \$1.52; and the last 20 months the average was \$1.75. The witness concluded that the main concern revealed by this data is that the spread is widening. After evaluating several differing partial payment rates, the witness concluded that a five percent inflation at the prior month's lowest class price was a reasonable adjustment to approximating the spread that existed over the first 36-month period.

The DFA, *et al.*, witness also testified that there are a wide variety of payment dates and payment levels among the 11 orders. There are currently, said the DFA witness, three groupings: the Southern orders' payments are a percentage of the prior month's blend price adjusted for location; the Northwest and Central orders set the advanced payment at the prior month's lowest class price; and the Western orders use an add-on percentage applied to the prior month's lowest class price. The witness also noted that while most orders have one partial payment, the Florida order has two partial payments before a final payment is due.

Several individual dairy farmers also testified that their cash flow situations have deteriorated since the current partial payment rate provisions became effective. In this regard, all dairy farmers testified in support of increasing the rate of partial payment.

A representative of Leprino Foods, a national cheese-processing firm, testified that USDA should reject Proposal 6 since it does not appropriately address the issue it purports to remedy and it violates the minimum pricing concepts for

manufacturers, but not because there is lack of need for an amendment. The Leprino witness testified that the cause of the disparity between the partial and final payment rates is a combination of a failure to blend the pool's higher use values into the partial payment and the use of a price level from the previous month rather than the current month. This witness argued that rather than addressing these problems in the proposal, the proposed increase in the rate merely transfers the burden to processors. The witness stated that the proposal violates minimum pricing principles by setting the partial rate above the equivalent market value for Classes III and IV, with the resulting differences in partial payment rates between orders causing disparate economic positions for competing Class III and IV handlers in different orders.

The witness from Leprino concluded that the most appropriate approach to address the root cause of the disparity between the partial and final payment would be the implementation of a similar minimum payment in pooling structure for the partial payment that exists in the final payment. However, the witness did not propose its adoption because such a remedy would require significant administration in terms of plant reporting, report analysis, pool calculation, and movement of funds into and out of the pool than the current system of minimum payment at the lowest class price. This concept was not properly noticed, the witness argued, and a more comprehensive review of all provisions of the order that would be affected and the magnitude of the impact would be necessary.

The Department reconstructed noticed data that recreated the intended analysis presented by witnesses. The Department's reconstruction relied, in part, on the partial payment provisions of the pre-reform orders. The Department used the previous month's Class III price of the pre-reform orders as the lowest class price because the Class III price was used then to set the rate of partial payment. In this regard, comparing partial payment relationship outcomes using actual historical provisions provided for comparing pre- and post-reform partial payment relationships as to the total payment for milk in a month.

Even with the limited amount of data available since the implementation of order reform, the Department's comparison of pre- and post-reform partial payment relationships to total payments does appear to support the observations made by the DFA witness. However, this initial observation alone is not a sufficient basis for changing the

rate of the partial payment. Some significant differences in certain key assumptions were made by the proponents of Proposal 6 from those assumptions used by the Department in comparing pre- and post-reform time periods.

Also of concern is the limitation inherent in comparing a 36-month period to one of only 21 months. The 36-month time period shows price trends rising and falling, while the 21-month time shows a period of generally an upward trend in prices. This may suggest that there has not yet been a sufficient period of elapsed time to infer the impact of downward trends in prices and the possible effect on the relationship between the partial and final payments to producers.

With regard to Leprino's concern about uniformity of partial payment rates between orders, the current milk orders have a variety of partial payment rates. Several orders use a partial payment rate based on a percentage of the previous month's blend price, and the Florida order, for example, provides for two partial payments. Additionally, the Western and Arizona-Las Vegas orders, both of which pool significant volumes of milk used in cheese, provide for partial payment rates of 120 and 130 percent, respectively, of the previous month's lowest class price.

There may be times when the partial payment rate exceeds the balance due for the month. In this regard, handler interests point to this outcome as requiring them to pay more for milk for part of the month than its actual total value for the month. It is appropriate to note that this exact outcome occurred several times during the pre-reform 36-month period used by DFA. This decision finds the concerns of handlers in this regard as unpersuasive.

Deductions authorized by producers are more often made in the final payments for milk. There could be times when the amount deducted from the final payment exceeds the amount of the final payment. If the deductions are high enough for this to happen, it would be reasonable to conclude that producers desiring to smooth their cash flow would opt to allow a larger portion of their deductions to be made with receipt of the partial payment, as the order allows.

The partial payment provision in Federal orders is a minimum requirement placed on handlers to pay producers for milk delivered. It is notable that cooperatives and handlers are not restricted to paying only one partial payment at the rate specified in the order; partial payments for milk can be made more often. Additionally,