



**Testimony of  
Paul G. Christ  
On Behalf of  
The Dean Foods Company**

**Hearing to consider amendments to the Central  
Federal Milk Marketing Order  
Docket No. AO-313-A48; DA-04-06  
December 6 et seq. 2004**

My name is Paul G. Christ. I reside at 245 Indian Trail, So., Afton, Minnesota 55001. I have a long background in working with Federal milk orders. From 1961 to early 1974 I worked for the Dairy Division of the Agricultural Marketing Service of U.S.D.A., both in the Washington office, and in market administrators' offices in the field. Between 1974 and 2000 I worked for Land O'Lakes, Inc., and was responsible for marketing Land O'Lakes member milk under several Federal milk orders, and when necessary, for proposing changes to those orders. Thus, I have experience both inside and outside the government in the operation and effects of individual milk orders and of the entire Federal milk order system.

I appear here as an advocate for Dean Foods Company in support of proposals number 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13.. I will attempt to explain how each proposal would work, and how it would improve the supply of milk available for fluid use, and the well-being of producers whose milk is continuously pooled.

As was stated by Evan Kinser in his earlier testimony, Dean Foods Company is interested in improving two aspects of the Central milk order. The first is to improve the ability of the order to attract an adequate and reliable milk supply to the Federal order 32 pool, and the second is to improve the availability of milk for Class I use.

I will address each proposal in its order of priority for Dean Foods Company.

**Proposal No. 6**

Proposal No. 6 is the most important of all the proposals offered by Dean Foods Company. It would establish a "dairy farmer for other markets" provision that would require a greater commitment by handlers to either pool or not to pool milk on the order. I will attempt to explain how proposal number 6 would work. It would add a new subparagraph (b)(5) to the producer definition, section 1032.12. It reads as follows:

*"Section 1032.12 Producer*

\* \* \* \* \*

(b) \* \* \*

*(5) For any month, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Section 1000.9(c) if any pool plant operator or any cooperative association caused milk from the same farm to be delivered to any plant as other than as producer milk, as defined under the order in this part or any other Federal milk order, during the same month or any of the preceding 11 months, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month."*

The new subparagraph would exclude from the pool the milk of any dairy farmer whose milk was not continuously pooled under one or another Federal milk order during the last 12 months. The sole exception from this exclusion would be the case where the dairy farmer temporarily lost Grade A status, and whose production facility was reinstated as Grade A within 21 days. This exception can be achieved by adopting a conforming change, under Proposal No. 15 to the producer milk definition as follows:

***"Section 1032.13 Producer Milk***

\* \* \* \* \*

(d) \* \* \*

*(1) If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval, not to exceed 21 days in a calendar year, unless it is determined by the market administrator to be due to unavoidable circumstances beyond the control of the dairy farmer, such as a natural disaster (ice storm, wind storm, flood) or fire in which case the market administrator may determine the time of extension granted to the affected farm(s))), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;"*

The idea behind requiring ten days' delivery of milk to a distributing plant is to provide a benefit to the pool while discouraging milk that was depooled for economic reasons from easily becoming repooled when it is economically favorable to do so. The benefit to the pool would be more milk being made readily available to the Class I market.

Dairy farmers for whom their milk is pooled when benefits exist, and is not pooled when costs exist, create a burden on producers whose milk is continuously pooled. When the blend price is higher than a particular class price, there is an incentive to pool all milk used in that class. This has the effect of averaging down the producer price differential

and the blend price, reducing returns to continuously pooled producers. On the other hand, when the blend price is lower than a particular class price, there is an incentive to depool all milk used in that class. This also has the effect of averaging down the producer price differential and the blend price, resulting, again, in reduced returns to continuously pooled producers. The losers in this process are the producers whose milk is kept in the pool and continues to be available to serve the needs of the fluid market.

Under proposal number 6, milk that was depooled within the last 12 months could again become repooled, if the responsible handler demonstrates that it is, in fact, available for fluid use. This is accomplished by delivering 10 days production from that dairy farmer's facility to a pool distributing plant. This demonstration would insure that pool participation would be open to any dairy farmer for whom it is technically and economically feasible to supply milk for fluid use. In effect, the proposal would not prevent depooling. However, it would make it more difficult to return such a dairy farmer's milk to the pool after it is once depooled.

This demonstration of competence to supply milk for fluid use would continue for 12 months before such formerly depooled milk could be pooled under the more flexible provisions of the order that apply to continuously pooled milk.

This proposed change would not be economically burdensome if the milk were favorably located relative to a distributing plant. However, it would make it expensive for a distant or unfavorably located dairy farmer to again become a producer and participant in the pool. It would also insure the milk for which it is not technically or economically feasible to serve the fluid market would not reenter the pool.

Dairy farmers whose milk is pooled continuously under the Central milk order would not be affected by this proposal. These dairy farmers shared in both the costs and the benefits of pool participation on a continuous basis.

Also, dairy farmers whose milk is pooled continuously under any other Federal milk order(s) during the preceding year would not be affected by this proposal. They could enter the Federal order 32 pool under the same flexible provisions as apply to Federal order 32 producers who were not depooled within the last year. In effect, these "other-order" producers were continuous participants in one or another Federal order pool, sharing both the costs and benefits of such participation on a continuous basis.

So, proposal number 6 would have three desirable effects:

1. Some milk in class II, III or IV would stay in the pool when the blend price was lower than the class price, in order to avoid the extra cost of returning to the pool. This would increase the producer price differential (making it less negative) and the blend price for all producers, especially those whose milk is delivered to distributing plants.
2. Some Class III milk that is depooled would never return to the pool because it is

no longer technically or economically feasible to do so. This would have the effect of increasing the producer price differential whenever it is positive. Those producers whose milk is delivered to distributing plants would benefit.

3. Some Class II, III or IV milk that is depooled would return to the pool, but only through regular, significant deliveries to distributing plants. This would demonstrate that for the milk being repooled it is technically and economically feasible to serve the fluid market. It would also increase the supply of milk ready and willing to serve the needs of the fluid market.

For the above reasons Dean Foods Company urges the Secretary to adopt proposal number 6.

### **Proposal Number 7**

Dean Foods Company also offers proposal number 7 for consideration by the Secretary. It is offered as a weaker, less desirable alternative to proposal number 6, in the event that proposal number 6 is rejected. Proposal number 7 reads as follows:

***“Section 1030.12 Producer***

\* \* \* \* \*

(b) \* \* \*

- (5) *For any month of February through June, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Section 1000.9(c) if any pool plant operator or any cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the same month, any of the 3 preceding months, or during any of the preceding months of July through January, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month; and*
- (6) *For any month of July through January, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in Section 1000.9(c) if any pool plant operator or any cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the same or the preceding month, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month.”*

The difference between proposal number 6 and proposal number 7 is that, in the event that a dairy farmer's milk is depooled, the number of months for which 10 days' milk

production would have to be delivered to a pool distributing plant would be fewer.

In the first case, under subparagraph (5), if milk is depooled during the period of February through June, only four months of such deliveries would be required, compared to 12 months under proposal number 6.

In the second case, also under subparagraph (5), if milk is depooled in any month of July through January, then such deliveries would be required in each month of February through June. Dean Foods is more interested in discouraging depooling in the short season than during the rest of the year.

In the third case, under subparagraph (6), if milk is depooled during the period of July through January, only two months of such deliveries would be required, compared to 12 months under proposal number 6.

The same conforming change to the Producer Milk definition (Section 1032.13(d)(1)) needs to be made for this proposal as was offered for Proposal No. 6.

Proposal number 7 would have the same general effects and benefits as proposal number 6, except that the benefits of depooling would be greater, and the costs of repooling would be smaller. Thus, the beneficial effects on continuously pooled producers would be smaller, and there would be a less abundant and reliable supply of milk available for fluid use.

Therefore, we again recommend the adoption of proposal number 6. But, if for whatever reason the Secretary chooses not to adopt proposal number 6, then we recommend the adoption of proposal number 7.

### **Proposal Number 8**

Proposal number 8 is offered by Dean Foods Company as a less desirable alternative to both proposals number 6 and 7. It offers a different type of mechanism for limiting the amount of depooled milk that can be repooled in any given month. It is similar to proposal number 2, but puts a tighter limit on how much milk can be pooled from month to month under the order.

Proposal number 8 reads as follows:

***“Section 1032.13 Producer Milk***

\* \* \* \* \*

- (f) *The quantity of milk reported by a handler pursuant to Section 1032.30(a)(1) and/or Section 1032(c)(1) may not exceed 115 percent of the producer milk receipts pooled by the handler during the prior month. Milk diverted to*

*nonpool plants reported in excess of this limit shall be removed from the pool by the market administrator. Milk received at pool plants, other than pool distributing plants, shall be classified pursuant to Section 1000.44(a)(3)(v) and Section 1000.44(b). The handler must designate, by producer pickup, which milk is to be removed from the pool. If the handler fails to provide this information, the market administrator will make the determination. The following provisions apply:*

- (1) Milk shipped to and physically received at pool distributing plants shall not be subject to the 115 percent limitation;*
- (2) Producer milk qualified pursuant to Section \_\_\_\_\_ .13 of any other Federal Order and continuously pooled in any Federal Order for the previous six months shall not be included in the computation of the 115 percent limitation.*
- (3) The market administrator may waive the 115 percent limitation utilizing:*
  - (i) For a new handler on the order, or*
  - (ii) For an existing handler with significantly changed milk supply conditions due to unusual circumstances;*
- (4) The market administrator may increase or decrease the applicable limitation for a month consistent with the procedures in Section 1032.7(g); and*
- (5) A bloc of milk may be considered ineligible for pooling if the market administrator determines that handlers altered the reporting of such milk for the purpose of evading the provisions of this paragraph.”*

The mechanism for discouraging the depooling of milk under proposal number 8 is to restrict the amount of additional milk that can be pooled by a handler from one month to the next. That means that the volume of milk that is continuously pooled under Federal order 32, or any other Federal order, can be pooled without hinderance or restriction. However, milk that has been depooled under this or any other order can only be gradually repooled. This means that most of the milk for which the cost of pooling is avoided during periods of negative producer price differentials cannot immediately enjoy the benefits of pooling when the producer price differential is positive.

This reduces the benefits of depooling and increases the costs of repooling. The effect is a modest discouragement of depooling.

If depooling is discouraged to any degree, producers whose milk stays in the pool will enjoy a higher (less negative) producer price differential during months when it is

negative.

However, proposal number 8 provides for instant repooling of any milk that is delivered directly to a pool distributing plant. This has the desirable effect of increasing the supply of milk that is readily available to the fluid market, following a period of depooling.

Proposal number 8 increases the costs of depooling with the greater percentage of a handler's milk that is depooled. The following table 1 illustrates the time it takes to repool all the milk of a handler if he depools between 10 and 90 percent of the milk under his control:

**Table 1. Effect of the percentage of milk depooled on the time it takes to repool all the milk of a handler at a rate of 115 percent per month under Proposal No. 8**

<u>Month</u>	<u>Percentage of milk pooled</u>								
	10	20	30	40	50	60	70	80	90
0									
1	11.5	23.0	34.5	46.0	57.5	69.0	80.5	92.0	100
2	13.2	26.4	39.7	52.9	66.1	79.4	92.6	100	
3	15.2	30.4	45.6	60.8	76.0	91.3	100		
4	17.5	35.0	52.5	70.0	87.5	100			
5	20.1	40.2	60.3	80.5	100				
6	23.1	46.2	69.4	92.5					
7	26.6	53.2	79.8	100					
8	30.6	61.2	91.8						
9	35.2	70.4	100						
10	40.5	80.9							
11	46.5	93.0							
12	53.5	100							
13	61.5								
14	70.8								

15	81.4
16	93.6
17	100

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The point of table 1 is that the greater the proportion of milk depooled, the longer the time needed to requalify the depooled milk. This is a desirable feature of proposal number 8. Those handlers (and producers) who capture the greatest benefit from depooling, also incur the greatest loss of benefit from attempting to regain pool status.

### **Proposal Number 4**

Proposal number 4 would eliminate the supply plant and supply plant system provisions from the order. This proposal would also expand the definition of a 9(c) handler to include "any organization", not just cooperative associations. It would amend Section 1032.7 (Pool Plant) by removing paragraphs (c), (d), (f) and revise Section 1032.9 to read as follows:

***"Section 1032.9 Handler.***

*Handler means:*

*(a) Any person who operates a pool plant or a nonpool plant.*

*(b) Any person who receives packaged fluid milk products from a plant for resale and distribution to retail or wholesale outlets, any person who as a broker negotiates a purchase or sale of fluid milk products or fluid cream products from or to any pool or nonpool plant, and any person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant. Persons who qualify as handlers only under this paragraph under any Federal Milk order are not subject to the payment provisions of Section \_\_\_\_\_.70, \_\_\_\_\_.71, \_\_\_\_\_.72, \_\_\_\_\_.73, \_\_\_\_\_.76 and \_\_\_\_\_.85 of that order.*

*(c) Any organization with respect to milk that it receives for its account from the farm of a producer and delivers to pool plants or diverts to nonpool plants pursuant to Section \_\_\_\_\_.13 of the order. The operator of a pool plant receiving milk from such an organization may be the handler for such milk if both parties notify the market administrator of this agreement prior to the time that the milk is delivered to the pool plant and the plant operator purchases the milk on the basis of farm bulk tank weights and samples."*

Elimination of the supply plant and supply plant system provisions would eliminate the



use of supply plants solely for the purpose of pooling milk. Without these provisions all deliveries to pool plants to qualify a producer's milk would have to be made to pool distributing plants. This would enhance the role of the order in assuring the willingness and ability of pooled milk supplies to serve the needs of the fluid market.

Supply plants already play a minor role in supplying milk to the fluid market in the Central order. Statistics entered into this record by the market administrator show that less than five percent of deliveries to distributing plants originate at pool supply plants. This means that a primary function of supply plants is to facilitate the pooling of milk, and not to facilitate the delivery of milk for fluid use.

Also, supply plants represent a relatively inefficient form of supply service to distributing plants. Milk assembled from farms must be received at the supply plant, cooled and/or stored there, and then loaded out again for eventual delivery to a distributing plant. This extra pumping in and pumping out provides a measure of abuse to the milk that may lower its quality. In addition, there is additional time expended between the time the milk is picked up at the farm and its eventual delivery to a distributing plant, providing further risk to the quality of the milk.

The extra handling and cooling of milk at a supply plant also incurs extra costs, both in operations and in shrinkage.

Therefore, the order should not encourage a system of supply that is used very little to serve the fluid market, and increases the cost of such service.

With the rise of larger farms, larger farm bulk pickup trucks, and better cooling and quality performance on the farm, the industry has come to accept the efficiency of direct farm to distributing plant delivery of milk.

By allowing any organization to become a 9(c) handler, proposal no. 4 preserves the flexibility of such an organization to pool milk. It allows the handler to take title to the milk of producers, to divert it to nonpool plants, and to qualify it for pooling by making the necessary deliveries to distributing plants.

Dean Foods Company recommends the adoption of proposal no. 4, in addition to proposal no. 6.

### **Proposal Number 5**

Proposal number 5 is offered by Dean Foods as an alternative to proposal number 4. It would increase the shipping percentage for supply plants, and would require four days' production of a producer to "touch base" at a pool plant during the month. It reads as follows:

*"Section 1032.7 Pool Plant.*

\* \* \* \* \*

*(c) A supply plant from which the quantity of bulk fluid milk products shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 35 percent during the months of July through January and 25 percent all other months of the Grade A milk received from dairy farmers (except dairy farmers described in Section 1032.12(b)) and from handlers described in Section 1000.9(c), including milk diverted pursuant to Section 1032.13, subject to the following conditions:*"

\* \* \* \* \*

**"Section 1032.13 Producer Milk**

\* \* \* \* \*

*(d) \* \* \**

- (1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval not to exceed 21 days in a calendar year), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;*
- (2) The equivalent of at least four days' milk production is caused by the handler to be physically received at a pool plant in each of the months of July through November, and January;*
- (3) The equivalent of at least four days' milk production is caused by the handler to be physically received at a pool plant in each of the months of December and February through June if the requirement of paragraph (d)(2) of this section (1030.13) in each of the prior months of July through November and January is not met, except in the case of a dairy farmer who marketed no Grade A milk during each of the prior months of July through November and January.*
- (4) Of the quantity of producer milk received during the month (including Diversions, but excluding the quantity of producer milk received from a handler described in Section 1000.9(c), the handler diverts to nonpool plants not more than 65 percent during the months of July through January and not more than 75 percent during the months of February through June, provided that not less than 35 percent of such receipts in the months of July through January and 25 percent of the remaining months' receipts are delivered to plants described in Section 1032.7(a) and (b);*

\* \* \* \* \*

By increasing the shipping percentage for supply plants and supply plant systems, proposal number 5 promotes a more effective mechanism for assuring that an adequate and reliable supply of milk is available to distributing plants under the Central order. Higher shipping requirements will make it more difficult to pool as much milk on the order as in the past, but they will make a greater share of the pooled milk available to the fluid market.

We have already seen from the testimony of Mr. Elvin Hollin and Mr. Gary Lee that economic incentives, by themselves, are not adequate to attract milk to distributing plants under the Central order, especially in the Southern Illinois and St. Louis portions of the marketing area. Higher shipping requirements will help to overcome these impediments by reducing the size of the pool and increasing the level of the blend price relative to surrounding markets.

The second part of proposal number 5 does nothing more than insure that more producer milk is actively engaged in the process of serving the fluid market. This process starts with the production of Grade A milk, and then continues the next step of being received in a Grade A pool plant facility. If producer milk is diverted to a nonpool plant, then it is out of the Grade A marketing stream and is no longer available to the fluid market. Increasing the "touch-base" requirement insures that more milk stays in that Grade A marketing stream one more step than otherwise would be the case. The effect is to make more milk physically available for the fluid market.

Proposal number 5 would also insure that pool plant operators keep their Grade A facilities operating at a higher level of output than would be the case if more milk were diverted. In effect, more Grade A milk would be available for fluid use at all times, and pool plant operators would routinely engage in Grade A operations, thereby maintaining greater standby capacity for supplying the fluid market.

### **Proposal Number 9**

Proposal number 9 would delete the split plant provision contained in Section 1032.7(h)(7). The effect would be that a dairy facility at a location could either be a pool plant or a nonpool plant, but not both. The effect of the existing split plant provision has been to facilitate pooling, but not to facilitate the delivery of milk to distributing plants.

An ideal pool supply plant is one that receives producer milk and transships it to pool distributing plants when it is needed for fluid use, and to a manufacturing facility when it is not needed for fluid use.

The present split plant provision encourages the establishment of a separate Grade A tank at a manufacturing facility to receive the minimum amount of milk needed to qualify producers for pooling. The rest of the available milk is diverted directly to the manufacturing facility, and is never available for fluid use.

Even the portion of the local milk supply that is received in the Grade A tank is not usually shipped to a distributing plant. It is typically transferred via pipeline to the manufacturing facility, never again to be available for fluid use.

So, in our opinion, the split plant provision serves more to insulate pooled milk from the fluid market than to enhance its availability for fluid use.

Proposal number 9 would not cure the problem. However, by separating a pool plant from a non-Grade A manufacturing facility, it may keep more pooled milk in the Grade A system, thereby incrementally increasing its availability for fluid use.

### **Proposal Number 10**

Proposal number 10 is another way of tinkering with the split plant provision. It would require the nonpool portion of a split plant to remain a nonpool facility for 12 months. The proposal reads as follows:

***“Section 1032.7 Pool plant.***

\* \* \* \* \*

(h) \* \* \*

(7) *That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a plant as a nonpool plant must be requested in advance and in writing by the handler and must be received by the market administrator. Such nonpool status shall be effective on the first day of the month following receipt of the request by the market administrator and thereafter for the longer of twelve (12) consecutive months or until notification of the desire to requalify as a pool plant, in writing, is received by the market administrator. Requalification will require deliveries to a pool distributing plant(s) as provided for in Section 1032.7(c). For requalification, handlers may not use milk delivered directly from producers' farms pursuant to Section 1000.9(c) or Section 1032.13(c) for the first month.”*

This proposal would simply provide more stability as to which portion of a facility is a pool plant and which is not. If a plant operator wants to take advantage of the greater pooling flexibility associated with a split plant, he can do so, but he must be committed to whatever decision he makes for 12 months or more. If he changes his mind he can requalify the nonpool portion of his facility as a pool plant by making shipments directly from the facility to distributing plants.

Proposal 10 would also prohibit the use of milk delivered directly from farms to a distributing plant from being used during the first month to requalify a plant. Requiring

shipments from the plant itself insures that the facility is, indeed, capable of providing Grade A milk to the fluid market. We think this should be a minimum condition for a supply plant to participate in the pool.

### **Proposal Number 11**

Proposal number 11 eliminates system pooling of supply plants by deleting Section 1032.7(f). This means that each and every handler would pool his producers and each of his plants on the basis actual physical deliveries to distribution plants. This would insure that every pool participant is ready, willing and able to serve the fluid market.

This proposal does not discourage pooling, but it does insure that any milk that is pooled is in fact part of the Grade A system and available for Class I use.

### **Proposal Number 12**

This proposal would reduce the flexibility of supply plant systems by limiting their use to a single handler. It reads as follows:

***“Section 1032.7 Pool plant.***

\* \* \* \* \*

*(f) A system of supply plants may qualify for pooling if 2 or more plants operated by one handler meet the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant, subject to the following additional requirements:”*

\* \* \* \* \*

This proposal represents an intermediate position between the current supply plant system pooling provisions, and no supply plant system pooling provisions, as suggested in proposal number 11. In this case a single handler could form a system and qualify pool supply plants through that system. It would insure that each handler, but not necessarily each plant maintains the competence to service the fluid market. It would reduce the amount of pooled milk that is not practically available to the fluid market, but would not eliminate it.

### **Proposal Number 13**

This is the final proposal offered by Dean Foods Company. It incorporates proposal number 11 by prohibiting the use of direct shipped milk to qualify a supply plant system. It also would require that every pool supply plant in a supply plant system ship some milk to the fluid market in order to maintain qualification. It reads as follows:

***“Section 1032.7 Pool plant.***

\* \* \* \* \*

(c) \* \* \*

*(2) The operator of a pool plant located in the marketing area may not include as qualifying shipments milk delivered directly from producers’ farms pursuant to Section 1000.0(c) of Section 1032.13(c). Handlers may not use shipments pursuant to Section 1000.9(c) or Section 1032.13(c) to qualify plants located outside the marketing area.*

\* \* \* \* \*

(f) \* \* \*

*(4) Provided no single plant ships less than 40 percent of the applicable percentage requirement of paragraph (c) of this section.”*

\* \* \* \* \*

The first part of proposal number 13 would prohibit the use of milk delivered directly from farms to a distributing plant from being used to qualify a supply plant. It reads as follows:

***“Section 1032.7 Pool plant.***

\* \* \* \* \*

(c) \* \* \*

*(2) The operator of a pool plant under paragraph (c) located in the marketing area may not include as qualifying shipments milk delivered directly from producer’s farms pursuant to Section 1000.9(c) or Section 1032.13(c). Handlers may not use shipments pursuant to Section 1000.9(c) of Section 1032.13(c) to qualify plants located outside the marketing area.”*

This proposed change would have two desirable effects. The first would be to discourage the practice of diverting nearby milk to distributing plant in order to qualify distant milk for pooling. The distant milk, whether inside or outside the marketing area, may not be practically available for fluid use, but nevertheless gets pooled because the nearby diversions to a distributing plant. We prefer to insure that all milk in the pool participate to a greater degree in the Grade A marketing stream. By prohibiting the use of diversions to make qualifying shipments, some of the milk that otherwise would be qualified for pooling with virtually no performance, will now have to be qualified by physical

shipments from a pool supply plant.

This improvement would also insure that more activity will take place in the Grade A facilities of pool supply plants, thereby increasing the competence of operators of such plants to serve the fluid market. This would enhance the availability of milk for fluid use in the Central order.

The second part of Proposal number 13 does not eliminate any of the authority to form supply plant pooling Systems. What it does do is insure that each plant in the system actually performs in serving the fluid market. Each plant would be required to ship 40 percent of the shipping requirement for a particular month in order to remain qualified and part of the supply plant system. For example, if the shipping requirement for the month is 35 percent, as we proposed above, then each individual plant would have to ship at least 14 percent ( $35 \text{ percent} \times .40 = 14 \text{ percent}$ ). If the shipping requirement is 25 percent, then each individual plant would have to ship at least 10 percent.

This concludes my testimony.