

**BEFORE THE UNITED STATES DEPARTMENT
OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE**

In the Matter of

Milk In the Mideast Marketing Area

: Docket Nos.:

: AO-11-0333;

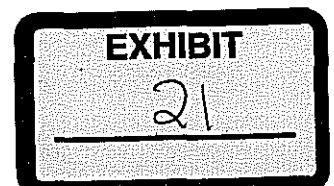
: AMS-DA-11- 0067;

: DA-11-0A

Statement Regarding Proposal 1

**Elvin Hollon
Dairy Farmers of America, Inc.**

**October 4, 2011
Cincinnati, Ohio**



Testimony on behalf of Continental Dairy Products, Inc., Dairy Farmers of America, Inc., Dairylea Cooperative Inc., Erie Cooperative Association, Foremost Farms USA Cooperative, Inc., Michigan Milk Producers Association, Inc., NFO Inc., Prairie Farms Dairy, Inc., Inc., White Eagle Cooperative Association.

Statement of Proponents

I am Elvin Hollon. I am employed by Dairy Farmers of America as the Director of Fluid Marketing and Economic Analysis. My office is located at 10220 Ambassador Drive, Kansas City Missouri, 64153. I am testifying today on behalf of Continental Dairy Products, Inc., Dairy Farmers of America, Inc., Dairylea Cooperative Inc., Erie Cooperative Association, Foremost Farms USA Cooperative, Inc., Michigan Milk Producers Association, Inc., NFO Inc., Prairie Farms Dairy, Inc.,. and White Eagle Cooperative Association. ("The Cooperatives")

Order hearing proceedings always walk a fine line between building a credible hearing record and respecting the boundaries of a confidential business relationship. Superior Dairy is a customer of Dairy Farmers of America, Inc. and we value our relationship. At times in the marketplace suppliers and buyers have differing views of the terms of trade. This hearing represents one such situation. We fully intend to present our case as best we can and maintain the boundaries of confidentiality. We expect other participants to respect that effort.

The proponents are supporters of Federal Milk Marketing Orders. We believe Federal Orders are economically proven marketing tools beneficial to dairy farmers. The Cooperatives collectively market the majority of the milk and service the majority of the class I sales in the Order. We requested this Hearing to consider changes in the Order 33 regulations dealing with the requirements for a pool distributing plant. Using pool statistics published in the *Mideast Milk Marketing Area 2009 – 2010 Statistical Report* for the Order wide mailbox milk price and milk production by farm size, we estimate that more than eighty five percent (85%) of the

nearly 6,974 producers pooled on Order 33 are small businesses. The disorderly marketing conditions supporting this hearing request are harmful to these small businesses on whose behalf this request is made. Failure to address these issues will be detrimental to all the members of our cooperatives both in their day-to-day dairy farm enterprises and the milk processing investments which they have made.

The Cooperatives

Continental Dairy Products, Inc. is a member-owned Capper Volstead cooperative of 29 farms that produce milk in 3 states. During the course of a year Continental will pool milk on Federal Milk Marketing Orders 5, 6, 7, 30, 32, and 33.

Dairy Farmers of America is a member-owned Capper Volstead cooperative of 9,200 farms that produce milk in 49 states. They pool milk on 10 of the 11 Federal Milk Marketing Orders including the Mideast Federal Order.

Dairylea Cooperative Inc. is a member-owned Capper Volstead cooperative of 2,000 farms that produce milk in 9 states. They pool milk on 3 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order.

Erie Cooperative Association is a member-owned Capper Volstead cooperative of 22 farms that produce milk in 2 states. They pool milk on 2 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order.

Foremost Farms USA Cooperative, Inc. is a member-owned Capper Volstead cooperative of 1,918 farms that produce milk in 7 states. FFUSA pools milk on 4 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order.

NFO, Inc. (NFO) is a member-owned Capper Volstead cooperative of 1,500 farms that produce milk in 18 states. NFO pools milk on 6 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order

Michigan Milk Producers Association (MMPA) is a member-owned Capper Volstead cooperative of 1,380 farms that produce milk in 4 states. MMPA pools milk on 5 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order.

Prairie Farms Dairy, Inc., Inc., is a member-owned Capper Volstead cooperative of 805 farms that produce milk in 7 states. They pool milk on 5 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order.

White Eagle Cooperative Association is a member-owned Capper Volstead cooperative of 12 farms that produce milk in 3 states. They pool milk on 4 of the 10 Federal Milk Marketing Orders including the Mideast Federal Order.

Producer and handler minimum price uniformity: the federal order marketwide pool system

To establish and preserve orderly marketing conditions the orders establish marketwide pools in which all handlers have uniform minimum class prices for all milk; and all producers have a minimum uniform blend price or PPD distribution on their milk production. Producers are either in or out on basis of performance. Handlers are in or out on basis of criteria which reflect the handler's relationship to the market and milkshed, with the intent to have competitive handler uniformity. These handler criteria have always recognized limited exceptions – since the pools are not nationwide and all-inclusive. Since the inception of Federal Order Reform the rule has always reflected the desire for full market-wide pooling. Any exceptions are limited. The Reform Decision noted explicitly that market wide pooling was the preferable and fair pooling option and adopted it for all Orders.

"Marketwide sharing of the classified use value of milk among all producers in a market is one of the most important features of a Federal milk marketing order. It ensures that all producers supplying handlers in a marketing area receive the same uniform price for their milk, regardless of how their milk is used. This method of pooling is widely supported by the dairy industry and has been universally adopted for the 11 consolidated orders. "

64 Fed. Reg. at 16130 (April 2, 1999)

The Reform Decision stressed the importance of pooling all significant competitors and also updating for changes in marketing patterns and technology. This was recently applied in the changes to producer-handler definitions system-wide.

Distributing Plant Pooling Principles in the Federal Order System

Several statements in the 1999 Final Decision for Federal Order reform summarize the Order system's views and philosophy regarding regulating pool distributing plants. The overriding theme is that similarly situated plants processing fluid milk products and selling in competition with each other should be subject to the same Order regulations.

"Pool Plant

The *pool plant* definition of each order describes those plants which receive milk that shares in the marketwide pool. It provides standards to identify those plants engaged in serving the fluid needs of the marketing area. Pool plants serve the fluid market to a degree that warrants their producers sharing in the added value that derives from the classified pricing of milk. While the pool plant definition in every consolidated order provides for a set of common principles, the standards applicable to pool plants differ among the consolidated orders, reflecting the fact that marketing conditions vary across the country. The goal in drafting pooling standards is to ensure both an adequate supply of milk for fluid use and orderly marketing by allowing all milk in a marketing area the opportunity to serve the fluid market and thereby share in the pool. There are

2 performance standards applicable to *pool distributing plants* in the consolidated orders. The first standard, which varies among orders, requires a distributing plant to have a minimum Class I utilization. Since *route disposition* includes only Class I milk, the specific standard is a measure of a distributing plant's route disposition as a percent of its total receipts of fluid milk products. This standard is generally directly related to the market's Class I utilization.

...

Once it is determined that a distributing plant is sufficiently associated with the fluid market to share in the pool, a second standard determines if the plant is sufficiently associated with a particular market to share in the pool applicable to that market. The "in-area" standard adopted for the consolidated orders requires that a distributing plant have 25 percent of its route disposition within a marketing area before it can be fully regulated by the order covering that marketing area. The 15 percent in-area standard in the proposed rule has been changed to 25 percent for all orders to reflect the larger, merged marketing areas that are adopted. This change should not affect the regulatory status of any current distributing plant. "

64 Fed. Reg. at 16132 (April 2, 1999)

The language in the Federal Order reform decisions which created a uniform pool distributing plant definition and the 25% "in area" standard clearly intended to keep all plants regulated and not to deregulate existing pool plants. The reform decisions, by pointing out that the pre-reform qualifying percentage was generally no more than 15%, establish the historical finding of USDA that an association at that level with a pool necessitated full pooling and full regulation. At the time and based on market conditions in the Orders, the reform decision concluded that establishing the 25% in-area route distribution standard would not create any problems because the Orders were bigger and would regulate all existing handlers in the same manner as they had been regulated. Now, some 12 years later, there is a need to modify that standard for Order 33.

The Reform Decision provided further guidance noting the importance of handler competition and milk procurement in the establishment of Order boundaries and the resulting Order regulation.

"Comments on Consolidation Criteria

Most of the comments relative to order consolidation criteria were submitted prior to publication of the proposed rule. It was the overall opinion of the commenter's that overlapping route disposition and milk procurement are the most important criteria to consider in the consolidation process.

...

Regulation of processors on the basis of their location rather than their sales areas has largely been incorporated in the consolidated orders by a provision that would pool a handler under the order for the area in which the handler is located unless more than 50 percent of the handler's Class I route dispositions are distributed in another order area. This provision should help to assure that the order under which a distributing plant is pooled will not change from month to month, and that a plant operator is subject to the same provisions, such as producer pay prices, as are its primary competitors. "

64 Fed. Reg. at 16045 (April 2, 1999)

The Federal Order system has reacted consistently over the years by updating regulations for distributing plants where new sales patterns or practices lead to circumstances where competing plants are not similarly regulated. For instance, a 1988 decision, Milk in the Ohio Valley, and Louisville – Lexington – Evansville Marketing Area – [Docket Nos. AO-165-A57 and AO-123- A58], supports the historical precedent in the Orders for similarly situated plants to have a common regulatory rules base.

" ... [This Decision] changes the current regulatory status of a pool distributing plant that is located in the Louisville – Lexington - Evansville marketing area but is regulated by the Ohio Valley order because a greater portion of its fluid milk products

distribution is in the latter order's marketing area. It would regulate such plant under the Louisville – Lexington – Evansville order. "

Proposed Rule, signed January 7, 1988.

This Decision altered the pool distributing plant standards for a **single plant** emphasizing the desire of "orderliness" and thus correcting a disorderly marketing condition which caused similarly situated plants within the same competitive area to have different costs of raw milk. This proceeding noted that provisions regulating processing plants serving retail stores over a wide geographic area may need to be altered in order to assure that all handlers competing for milk procurement and sales in an order area are subject to the same price as their competition.

While historically the issues concerning the right tests for partial regulation versus full regulation of distributing plants dealt with plants outside the marketing area with limited in-area sales, it is very instructive for this hearing that in the Federal Order reform decision, at least two changes in the distributing plant language were implemented uniformly across the system in order to **maintain** regulated status for all similarly situated distributing plants and prevent the disorder of such fully regulated plants becoming partially regulated. In one case, the language establishing the denominator for the minimum Class I percentage at a pool distributing plant was clarified to use only volumes physically received at the plant. This eliminated the possibility for a plant to avoid pool plant status by associating volumes of diverted non-Class I milk with the plant, thereby becoming partially regulated. In another case, the treatment of packaged transfers was changed to prevent plants from becoming partially regulated via certain plant-to-plant transfer transactions. The Final Decision stated:

" However, for the single purpose of qualifying a plant as a pool distributing plant, the pool distributing plant definition has been modified to treat transfers of packaged fluid milk products to other plants as if they were route disposition of the transferring plant for the purpose of identifying the plant's association with the fluid market. This

is necessary to preclude a plant from becoming partially regulated if the plant shipped significant quantities of packaged fluid milk products to another distributing plant. "

64 Fed. Reg. at 16132 (April 2, 1999)

In both these instances, the Department acted to close loopholes in language which allowed plants which were intended to be fully regulated to become partially regulated, a disorderly marketing condition.

The Decision further emphasized just how important maintaining consistent and constant pooling standards within an order marketing area is by providing special regulations for the unique set of plants that distribute ultra-pasteurized or aseptically-processed fluid milk products.

"A special pool distributing plant provision (i.e., Section .7(b) of the consolidated orders) has been adopted for distributing plants that distribute ultra-pasteurized or aseptically-processed fluid milk products. Such plants must be located in the marketing area and must process a certain percentage of their milk receipts into ultra-pasteurized or aseptically-processed fluid milk products during the month.

...

Plants specializing in ultra-pasteurized or aseptically-processed fluid milk products tend to have erratic processing and distribution patterns reflecting the long-life nature of the product they process. In some months, they may process fluid milk products but have little or no route disposition because the products are stored in inventory. In addition, these plants often have much wider distribution patterns than do other distributing plants and, under current orders, frequently shift regulation from one order to another. This shifting regulation is disruptive to the producers and/or cooperatives supplying these plants and is an additional regulatory burden to the plant operator. ... "

64 Fed. Reg. at 16132 (April 2, 1999).

Order regulation history is replete with changes designed to preserve the competitive balance afforded handlers and producer by the assurance of common minimum prices. This Hearing request continues that process.

Recent Changes in Market Conditions

Public data and historical records indicate Superior Dairy of Canton, Ohio, is a mainline dairy processor producing a standard line of dairy products. As noted on its Facebook page, it manufactures a variety of dairy products including milk, half & half, cottage cheese, sour cream, chip dip, bulk ice cream, ice cream cakes and distributes them to grocery stores and other businesses such as Fisher's Foods, COSTCO, Baskin Robbins, B.J.'s and Wal-Mart.

[<http://www.facebook.com/pages/Superior-Dairy/151379038252331#!/pages/Superior-Dairy/151379038252331?sk=info>] (**Exhibit _____**) Joe Soehrlen, of Superior Dairy, testified in the March 2005 Federal Order hearing dealing with performance standards and depooling issues, that Superior Dairy is a family-owned company with 235 to 255 employees, started by his grandfather in 1922. In 2005 they had 180 independent producers representing 75% of their volume, indicating a monthly volume at that time in excess of 30 million pounds, assuming average size producers.

Our understanding is that since at least since 1990, and from Federal Register information as far back as 1952, Superior Dairy has been an Order 33 (and before that the predecessor Order 36) pool distributing plant. (**17 Fed Reg 9922 – 9923. Nov 4, 1952**) (**EXHIBIT _____**) In recent years, Order 33 annual statistical summaries show it as a pool distributing plant for every month in 2008, 2009, and up to March of 2010. (**EXHIBIT _____**) The Federal Order Reform Final Decision published in March 1999 lists a table of plants and their regulatory status, listing Superior Dairy as both an Order 36 pool distributing plant in October 1997 and a plant expected to maintain pool distributing plant status after the Reform Decision was implemented in 2000. At the time of the March 2005 Federal Order hearing dealing with

performance standards and depooling issues, and according to 2004 data included in that hearing record, Superior Dairy did not have any sales in either the adjoining Order 1 or Order 5 marketing areas.

In April 2010, however, Superior became an Order 1 pool distributing plant and over the following months Superior has expanded its business footprint with sales now reported into seven different Orders. (**EXHIBIT _____**)

Recently, as evidenced by data published by the Order 1 Market Administrator, Superior Dairy, Canton, Ohio, has become a partially regulated pool distributing plant effective with March 2011 deliveries, effectively depooling the Canton plant and milk supply. This change in status is a cause of disorderly marketing conditions.

In 2011, Superior Dairy acquired a previously closed, small processing property at Wauseon, Ohio. (**EXHIBIT _____**) This plant, Superior Dairy, Wauseon Ohio, appeared for the first time on the March 2011 list of pool distributing plants as published by Federal Order 1. In the same month, the Superior Dairy Canton, Ohio, plant disappeared from any Market Administrator listing of pool distributing plants but appeared in some Market Administrator reports as a partially regulated distributing plant. It appears that these events are part of an artifice designed to allow Superior Dairy - Canton to avoid full regulation by falling below the 25% route disposition requirement in any marketing area.

The following description is, we believe, the explanation of how Superior Dairy's Canton plant has evaded full regulation. The recently purchased Wauseon, Ohio plant is very small with a small refrigerated storage area and limited milk receiving facilities. The plant's receiving facilities are too small and access is too difficult to receive an over-the-road tanker of raw milk. Consequently, for Order regulation purposes, any milk sales of substantial volume associated with the Wauseon, Ohio, plant can only come from the physical movement of packaged

product, transferred into and then out of the Wauseon plant. This product movement allows the product's ultimate distribution to be reported on the Wauseon handler report. We believe that Superior Dairy Canton is maneuvering enough Order 1 sales through the Wauseon plant and onto the Wauseon handler report to qualify Wauseon as an Order 1 pool distributing plant. These transshipments remove these Order 1 sales from the Canton plant, thereby disqualifying it from full regulation in Order 1 -- or any other Order -- by making sure no individual federal Order marketing area receives 25% of the Superior Dairy -- Canton's route disposition.

Establishing and maintaining the current status of these plants would appear to be a challenging task requiring sales in multiple Orders and an adroit management of the milk orders of one's customers. However, we know that in recent months Superior Dairy Canton had sales in Orders 1, 5, 6, 7, 30, 32 and 33. (**EXHIBIT _____**) Additionally, because of geographic proximity to non-federally regulated areas in central Pennsylvania and western New York, we expect the plant may also have sales in those unregulated areas. Consequently, by virtue of its broad geographic distribution, Superior has quite a few marketing area locations to work with in its effort to avoid pool plant status. A rough picture of Superior's distribution in various orders can be gleaned from Order 33 published information which shows the change in route distribution by Order 33 plants, and in Order 33 by Order 1 plants, between March and April 2010 when Superior switched from being pooled on Order 33 to Order 1. **Exhibit _____**, page 26, notes that sales by pool plants decreased by approximately 30 million pounds. A review of the pool distributing plant list shows the only changes between the two months was the addition of Toft Dairy (from partially regulated status to pool distributing plant and Superior Dairy being dropped from the list). Additionally data shown in the pie chart on page 26 notes that sales by partially regulated plants in Order 33 amounted to 0.79% - an extremely small volume and reflective of the Order preference for full regulatory status. Also note from the table on page 27 that sales by Order 33 handlers into unregulated areas is remarkably similar both month to month and year to year in spite of the change in status of Superior Dairy which would indicate that while they may have some sales into

unregulated areas, the volume is small and hardly a competitive factor. It appears that the competition for sales into unregulated areas must come from fully regulated plants and the change in status by Superior to partially regulated did not result in significantly more sales into unregulated areas.

Issues in the Mideast Order

Superior Dairy's shift to becoming a partially regulated plant causes disorderly marketing conditions to occur in the Mideast Federal Milk Marketing Order. Producer price relationships based on Order minimum values are now in question and handler competitive equity has been jeopardized. Producer and handler pricing equity are impacted by the Order's payment terms for partially regulated distributing plants. It has been our general experience that while Part 1000.76 (a), (b), (c) and (d) define the payment obligations for a partially regulated handler, handlers most often opt for section (b). That option, in general, states that if a plant can demonstrate to the Market Administrator that it has paid producers in aggregate the minimum order class use values, it will not have any pool obligation. The test takes into account all payments made to the producer including any premiums paid. The plant is thus able to operate as if in an individual handler pool, avoiding payments to the marketwide pool. This can amount to a substantial value. The dollars otherwise payable to the pool can be used in a competitive fashion to procure a milk supply in competition with pool handlers. Furthermore, the provision (b) test outlined above does not require that all producers supplying milk to the partially regulated handler be paid uniformly, so adjoining producers delivering milk to similarly situated plants, or in this case the same plant, may receive widely different prices. Furthermore a plant may choose between sections (a) or (b) each month depending on the payment calculation. Ironically, in the 2004 hearing referenced earlier, Superior Dairy was supporting changes in Order 33 regulations that would eliminate or greatly restrict the practice of depooling. A key reason why Superior opposed this practice was the resulting differences in producer pay prices when some handlers were able to take advantage of depooling and others could not. In this case, Order 33 provisions were changed to more fairly distribute returns.

Clearly this is a very similar situation and warrants a change in Order regulations to eliminate the practice. Competitive equity among pool distributing plants is also jeopardized by this situation. Unless changed, current provisions will afford similarly situated handlers widely differing minimum prices. This violates the basic regulatory premise of uniform minimum prices.

To estimate the **potential** magnitude of this problem, we have calculated the potential differences which could accrue to Superior Dairy in its capacity as a partially regulated distributing plant. The Cooperatives supply more than 20 fluid use processing plants within the Order 33 competitive area. Based on recent billings, these fluid use plants had a utilization mix of 86% Class I, 9% Class II, 3% Class III and 2% Class IV.

Published Order 33 statistics indicate that when Superior became pooled on Order 1 in April of 2010, the volume of distribution into Order 1 by Order 33 plants was reduced by approximately 13 million pounds per month. Attributing the bulk of this volume to Superior, and expecting that it would represent more than 25% of the plant's total route disposition implies plant volumes in the 30 to 50 million pound range. (**Exhibit _____**) Using these volumes, the average distributing plant estimated class utilizations, actual class prices, actual market test data for Ohio, and statistical uniform blend price data, we conservatively estimate the potential advantage that could have arisen from Superior being partially regulated for the 19 months ending in July 2011 to average 93 cents per hundredweight. The range high to low of the difference is a negative position of 13 cents per hundredweight to a high of \$1.89 per hundredweight. The total dollar impact of this advantage for a plant processing 30 million pounds of milk per month is estimated to be as much as \$567,806 per month; and it averages just under \$289,000 per month. Greater volumes would result in greater advantages. Since, in this example, these funds are not paid to the market wide pool, they would reduce every pool producer's PPD. And while they must be paid directly to the plant's milk suppliers, this constitutes an advantage to the partially regulated plant providing it with funds to pay for milk

supplies that other competitors do not have. Or said another way, a competitor would have paid this value into the market wide pool and not have the funds available to pay producers for milk.

In 8 of the 19 months in our calculation, the in plant blend (based on minimum prices and the utilizations as explained above) was equal to or more than enough to fully fund the Ohio milk-shed's adjusted mailbox price. In the remaining 11 months all handlers in our typical example would have to come up with more dollars from sales margins to pay for milk supplies – but the partially regulated plant would not have to come up with as much.

These "advantage" funds may then be used by the partially regulated plant to gain market share for packaged fluid milk products or to procure milk supplies with a competitive advantage or simply to enhance the plant's bottom line in a manner not available to competitors – hardly meeting the fairness test of market-wide pooling.

Request

The Order 33 regulations need to be amended to correct the situation where a traditional distributing plant facility, located in the heart of a Federal Milk Order marketing area, and which has been pooled continuously for many years, has been able to escape full regulation because of a loophole in the definition of 'pool plant' which enables it to split route distribution among various federal orders so that it is not pooled on any order. This is a disorderly condition threatening uniformity of treatment among both pooled producers and regulated handlers and it should be corrected with appropriate amendment to the pool plant language. As a result of our proposal, Superior Dairy would be in the same position with respect to milk cost and competitive equity with other similarly situated pool distributing plants and in the same fully federally regulated position that it was in prior to March 2011.

The Cooperatives understand that under this proposal a plant located inside the Order 33 marketing area which has more than 25% of its sales in another order area (and more of its sales in that order than in Order 33) will be pooled in the Order with greatest sales. While this is not necessarily ideal, it is acceptable. The proposal assures that the plant will be pooled somewhere.

Proposed Order Language

The Cooperatives offer the following Order language, amending the pool plant definition of Order 33: (underlined wording represents language different from current language)

§1033.7 Pool plant.

Pool plant means a plant, unit of plants, or a system of plants as specified in paragraphs (a) through (f) of this section, but excluding a plant specified in paragraph (h) of this section. The pooling standards described in paragraphs (c) through (f) of this section are subject to modification pursuant to paragraph (g) of this section:

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or §1000.7(b) of any other Federal milk order, from which during the month 30 percent or more of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than Class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area. Plants located within the marketing area with combined route disposition and transfers of at least 50% into Federal Order marketing areas but without 25% of route disposition and transfers into any one Federal Order will be regulated as a distributing plant in this Order.

The Cooperatives' proposal establishes an alternative test for pool distributing plant status, which is: If a plant located in the Order 33 Marketing Area has at least half of its total route disposition in Federal Order marketing areas but its sales patterns are such that no one Order has more than 25% of its sales volumes, then it would be regulated in Order 33, the order where it is physically located.

Request for Emergency Consideration

Because of the competitive issue which Superior presents in Order 33 and the other Federal Orders in which it operates and the substantial dollar impact we find in the marketplace resulting from the change in regulation from pool distributing plant to partially regulated plant, we ask that the Secretary process this request under expedited hearing procedures and consider implementation without a recommended decision. The Cooperatives' producer-members are intermingled with producers supplying Superior Dairy on a direct basis – and may receive different minimum blend prices as a result of this situation. Furthermore, the Cooperatives supply milk to both Superior Dairy and its competitors and the differences in regulatory status cause disorderly market conditions which are exacerbated each day that the status remains unchanged.