

Ex. 41

**STATEMENT**

**PROPOSAL NO. 14**

**NORTHEAST FEDERAL MILK ORDER HEARING**

**DOCKET NOS. AO-14-A70; DA-02-01**

**HELD SEPTEMBER 10, 2002**

**IN ALEXANDRIA, VIRGINIA**

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**ON BEHALF OF**

**NEW YORK STATE DAIRY FOODS, INC.  
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**SUPPLEMENTAL HEARING NOTICE  
PROPOSAL NO.14:**

NYSDFI proposal 14 would amend the “unit pooling” provision in Section 1001.7(e) as follows:

Section 1001.7 Pool plant.

\*\*\*\*\* (introductory text unchanged)

(e) \*\*\* (text unchanged)

- (1) At least one of the plants in the unit qualifies as a pool distributing plant pursuant to paragraph (a) of this section;
- (2) Other plants in the unit must process at least 60 percent of monthly receipts of producer milk, including cooperative 9 (C) milk, only as class I and class II products and must be located in the Northeast marketing area, as defined in Section 1001.2, in a pricing zone providing the same or a lower class I price than the price applicable at the distributing plant(s) included in the unit; and
- (3) \* \* \* (text unchanged)

This proposal was originally submitted on behalf of the H. P. Hood Company, Chelsea MA. It has since been made one of the several proposals advanced by the NYSDFI handler group. It would allow H. P. Hood and similarly situated unit-pool handlers, who operate two or more plants, at least one of which is a pool distributing plant defined in section 1001.7(a), greater flexibility in their operations. It would enable proponent handler to help the cooperatives and others, by allowing some class III and class IV “balancing” operations at the “secondary” plant in the unit.

Present unit pooling standards under paragraph (e), unduly restricts utilization of receipts at the secondary plant exclusively to class I or class II product use. This requirement is too restrictive. It doesn't allow the secondary “unit-pooled” plant, any flexibility in class III-class IV use, similar to that afforded other handlers, who have some class III or class IV processing, integrated with their class I and class II operations at a single pool distributing (PD) plant located in the metropolitan area. We see no reason why the combined “unit-pooled” operation should be so competitively restricted in operational flexibility.

As a practical matter, it is important to recognize that some transfers from a unit-pooled plant may be assigned class III or class IV, even though the transfer may have been intended for class II assignment at the receiving plant. Also, the current limitations fail to take into account necessary plant shrinkage and ending bulk inventory assigned to class III and class IV, respectively.

The H. P. Hood plant at Vernon, NY, is presently linked with the Hood Agawam, MA PD plant in a single unit-pooled entity pursuant to 1001.7(e). ~~The~~ Agawam is a class I PD plant, while the Vernon plant is primarily engaged in processing class II product, such as cottage cheese and cream.

Over the past year, August '01 through July '02, the classified use of receipts at the Vernon plant has been as follows:

	<u>Skim</u>	<u>B.f.</u>	<u>Total lbs.</u>
Combined class 1 and class 2	84 %	90%	84.2%
Classes III and IV	16%	10%	15.8%

The above use of milk received at Vernon over the past year has not changed significantly since the beginning of the Reform Order. The data shows that Hood has kept within the rules set under Section 1001.7(e). Milk assigned class III and class IV has been largely restricted to shrinkage and assignment to bulk milk in ending inventories.

This year Hood was requested by a cooperative to condense excess reserve milk at Vernon on a tolling basis. It was accomplished but requested class II assignment at the transferor plant could not always be achieved.

Our proposal 14 would provide the necessary regulatory tools for Hood to assist the cooperative in handling extra milk at least some of the time during critical plant capacity limitations faced by the cooperative. The proposed limitation of “no more than 60%” class III and class IV use at the unit-pooled plant provides the means to help balance the market, without burdening the market pool. If the proposed amendment is adopted, the Company might consider plant and equipment

changes there to enhance plant efficiency. Decision to make the changes; however, are not likely unless the unit pooling provision is amended to permit a modest amount of class III use there.

We urge proposal 14 be adopted in the interests of orderly marketing. We believe the amendment is also in the public interest, as well.