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September 4, 2001

Dr. Kenneth C. Clayton
Acting Administrator
USDA Agriculture Marketing Service
14 Independence Ave., SW
Room 3069-S
Washington, DC 20250-0201

Richard G. Scalise
President
Chief Operating Officer

Re: Proposals regarding Pooling of Milk on Federal Milk Marketing Orders.

Dear Dr. Clayton:

On June 26-27, 2001, the Agriculture Marketing Service held a hearing for the Upper Midwest Milk Marketing Order on proposals for pooling of producer milk. In addition, the Mideast Milk Marketing Order and the Central Order have requested hearings on the same subject. It would be no surprise to see the other northern Milk Marketing Orders request a hearing on the same subject.

ConAgra Dairy Foods strongly supports revising the "pooling provisions" of the Federal Order System. The pooling provisions need to be rewritten when Federal Order pool monies in one area are used to subsidize the lack of financial abilities in another.

The current pooling provisions under these Federal Orders are too loose. The current open pooling requirements have enabled some out-of-state dairy farmer associations to take advantage of the higher blend prices, with very minimal actual shipments, while diluting dairy farmers' returns from an already disadvantaged marketing area. In addition, some of these cooperative associations have pooled milk under a State Milk Order and a Federal Milk Marketing Order during the same month. This to our knowledge continues today.

In reviewing the hearing record from the Upper Midwest Marketing hearing of June 26 and 27, 2001, we note most of the testimony opposed diluting Federal Order pool monies with these pooling games as well as the pooling of milk on a State Order and a Federal Order during the same period. It was not surprising the numbers of processors and other cooperative associations that wanted these issues corrected immediately. It was very surprising though, that a larger cooperative association admitted to diluting a Federal Milk Order pool monies and using those funds to subsidize losses they were occurring selling milk to bottlers. This clearly does not support orderly marketing as intended by the Federal Milk Marketing Order system.

ConAgra Dairy Foods wants these loopholes and inequalities corrected immediately. Orderly and fair marketing should also be reestablished in these orders immediately.

As a proprietary manufacturer of dairy products, we suggest following the guidelines listed below to establishing revised pooling requirements in Federal Milk Marketing Orders:

1. Orderly marketing of producers' milk.
2. Milk pooled under any state regulation which includes market wide pooling should not be eligible to be pooled under any Federal Order.
3. Pooling of producers' milk or their associations milk through qualifying shipments should be based solely on where the majority of the milk is processed.
4. Exclude qualifying shipments in any manner to distributing plants regulated by another Federal Order for the purposes of pooling in another Federal Order.
5. Qualifying shipments should not create disorderly marketing and/or force extraneous financial burden on supply plants to meet pooling requirements.

Milk Orders were established to assist farmers develop steady, dependable markets and to help correct conditions that result in price instability and disorderly marketing. We believe this goal must apply to all farmers, not a select group. The system was not established for farmers, or their associations, in one marketing area, to take advantage of farmers, or their associations, in another marketing area.

The current pooling system needs to be corrected throughout the complete Federal Order system. The big milk players with market wide flexibility should not have the ability to play pooling games against the little guys in the market. All of which is being done at the cost of some diluted Federal Order pool monies and double pooling of State Order Milk on a Federal Milk Order. In addition, the Federal Order system should not force shipments creating competitive disadvantages among handlers competing for the same milk supplies.

The whole dairy industry continues to change whether it's on the east coast, the west coast or in between. The needs of handlers and producers for fair pooling will rely heavily on our Federal Order system.

Thank you for your consideration.

Sincerely,



Richard G. Scalise
President and COO

/aap

cc: USDA, Office of Hearing Clerk, Room 1081, 14th & Independence Ave., SW,
Washington, DC 20250