



March 20th, 2009

Homeland Creamery, LLC
6506 Bowman Dairy Rd.
Julian, NC 27283
(336)-685-6455

Maple View Farm Milk Co. LLC
3109 Dairyland Road
Hillsborough, NC 27278
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Re: Petition to amend all Federal milk marketing orders—REVISED SUBMISSION

From
Homeland Creamery, Julian, NC
Maple View Farm, Hillsborough, NC

We participated in the information session held on March 20th, 2009 and wish to express our appreciation to the organizers and participants. It was very informative and helpful to us because we have limited knowledge of federal order regulations and procedures. In light of what we heard, we wish to modify the proposal we have submitted previously. The following discussion replaces our earlier submission. Please note that this submission is in response to the proposal submitted by the National Milk Producers Association and that, in the event that it's proposal is withdrawn we would wish to withdraw our also. We would be satisfied to leave the current regulations in place in the Appalachian federal order (Federal Order 5).

We are currently classified as producer-handlers under the Appalachian federal order market. Several years ago, we were commercial dairy farmers selling milk to a dairy cooperative. Because of the financial difficulties of maintaining a viable farming operation we investigated alternatives, including bottling and marketing our own milk.

There is a growing market for specialty dairy products in our state of 9 million people and our plans and expectations have been met. Both our current volume of Class I sales is less than 250,000 pounds per month.

We oppose the proposal made by the National Milk Producers Federation to eliminate producer-handlers. Under the rules of federal order 5 We must rely entirely on the milk produced by our own cows and we are not allowed to buy additional supplies of raw milk from other sources. We feel this designation provides small businesses like ours with a viable and growing marketing opportunity. Our customers buy our milk because they know the source, they know we are a family farm and we can show them the practices we use. The alternative proposed by NMPF, that of an exempt plant, requires no such business structure or strict control over production and would create confusion in the minds of consumers. Therefore, we believe the producer-handler designation has value to certain consumers and producers and we propose that the producer-handler designation be retained. We know of no instances of market instability caused by a producer handler in any of the southeaster orders, namely orders 5, 6 and 7. However, in recognition of the open-ended nature of this category of handler and the potential for milk marketing problems in future, we propose a limit be placed on the size of business that can be so categorized. In recognition of economies of scale in milk production and farm bottling, we propose a limit of 750,000 pounds of Class I sales per month.

In recognition of the fact that the specialty dairy product market opportunities are increasing and to create additional opportunities for small family farm dairy businesses we further support increasing the limit on the size of an exempt plant to sales of 750,000 pounds of Class I sales per month.

We agree with the NMPF on the issue of labeling. Therefore, we propose that milk processed and sold by producer-handlers and exempt plants that meet the specifications as defined in our proposal be uniquely branded

Further, in recognition of the great regional diversity in farm production systems and in milk marketing, we further propose that these changes in the federal order rules apply to federal orders 5, 6 and 7.

In summary, we believe that these limits will permit specialty dairy operations to achieve reasonable economies of scale, thereby providing consumers with products they desire at a reasonable cost, while at the same time preventing the kind of disruptions in mainstream commodity markets that have been documented as resulting from very large producer-distributors who compete directly with commodity milk products.

Therefore, we propose the following:

§ 1000.8 Nonpool plant.

Nonpool plant means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) A plant fully regulated under another Federal order means a plant that is fully subject to the pricing and pooling provisions of another Federal order.

(b) Producer-handler plant means a plant operated by a producer-handler as defined under any Federal order ***provided such plant has route disposition and packaged sales of fluid milk products to other plants of 750,000 pounds or less during the month, all of which are uniquely branded.***

(c) Partially regulated distributing plant means a nonpool plant that is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant, from which there is route disposition in the marketing area during the month.

(d) Unregulated supply plant means a supply plant that does not qualify as a pool supply plant and is not a plant fully regulated under another Federal order, a producer-handler plant, or an exempt plant.

(e) An exempt plant means a plant described in this paragraph that is exempt from the pricing and pooling provisions of any order provided that the operator of the plant files reports as prescribed by the market administrator of any marketing area in which the plant distributes packaged fluid milk products to enable determination of the handler's exempt status:

(1) A plant that is operated by a governmental agency that has no route disposition in commercial channels;

(2) A plant that is operated by a duly accredited college or university disposing of fluid milk products only through the operation of its own facilities with no route disposition in commercial channels;

(3) A plant from which the total route disposition is for individuals or institutions for charitable purposes without remuneration; or

(4) A plant that in all markets has route disposition and packaged sales of fluid milk products to other plants of ~~450,000~~ **750,000** pounds or less during the month, ***all of which are uniquely branded.***

However, we are not experts on federal order rules and regulations, which are complex and extensive. Therefore, we would welcome your assistance in insuring that this wording is appropriate and that any related changes to other sections of the regulations are identified and, where necessary, made consistent.

Sincerely,

Christopher D. Bowman

Roger Nutter