



United
States
Department
Of
Agriculture

Agricultural Marketing
Service
Dairy Programs

FEDERAL MILK ORDER No. 1
Northeast Marketing Area
89 South Street, Suite 301, Boston, MA 02111-2671

Mailing Address:

P.O. Box 51478
Boston, MA 02205-1478
Phone: 617-737-7199 --- Fax: 617-737-8002

E-mail: NortheastOrder@fedmilk1.com

Website: <http://www.fmmone.com>

Albany:
302A Washington Avenue Ext.
Albany, NY 12203-7303
Tel.: (518) 452-4410
Fax: (518) 464-6468

Alexandria:
P.O. Box 25828
Alexandria, VA 22313-5828
Tel.: (703) 549-7000
Fax: (703) 549-7003

September 26, 2013

TO: Pool Handlers on the Northeast Order

FROM: Erik Rasmussen, Market Administrator, Boston, Massachusetts

SUBJECT: Shipping Percentage Request for October and November 2013 – Withdrawn

On September 11, 2013, a request was received on behalf of Elmhurst Dairy, Inc. (Elmhurst), a pool handler operating multiple distributing plants and regulated under the provisions of the Northeast Order, to increase the shipping percentage specified in Section 1001.7 (c) (2) of the Order to 30 percent for the months of October and November 2013. The request cited an unanticipated, yet significant, drop in farm milk production occurring in early September, with little or no additional milk being made available to Elmhurst. The petitioners requested that an investigation immediately be initiated to review the need for an adjustment as requested. In the two weeks that have passed since the request was received, some market conditions have modified and pool handlers operating in the Northeast Order have made supplies of milk available to Elmhurst with acknowledgement of continued availability in upcoming months. As a result, on September 25, 2013, Elmhurst withdrew their request to increase the percentages for the months of October and November.

Following is a summary of the investigation conducted by the Market Administrator into this matter that supports the decision reached by Elmhurst that an increase in the shipping percentage for October and November 2013 is unnecessary and, in fact, could lead to unwarranted market disruption. The shipping percentages under Section 1001.7 (c) (2) of the Order for the months of October and November shall remain at the 15 percent level as announced in a decision issued August 5, 2013.

Investigation

On September 13, 2013, this office notified pool handlers of the Elmhurst request and invited the submission of comments and data regarding the request no later than September 25, 2013. In the course of the Market Administrator's investigation into market conditions, conversations occurred with pool handlers, and it became apparent that the shortages reported by Elmhurst were not as acute across the region or for other handlers operating pool distributing plants. No handler operating pool distributing plants pooled on the Order submitted comments in support of Elmhurst's request, nor were any comments received noting significant production declines and tight milk supply conditions.

Pool handler and operator of a supply plant, Queensboro Farm Products, Inc. (Queensboro), submitted comments opposing the increase while noting that in early September they were called on to help supply a minor Class I milk shortage and they did so immediately. Queensboro stated that the Class I supply will be maintained by the industry, as it has in the past, without a mandated increase in the shipping percentage.

The Greater Northeast Milk Marketing Agency (GNEMMA) submitted comments stating that they did not believe an increase in the percentages was necessary while noting that when called to their attention the GNEMMA cooperatives, with support from their customers, made milk available to Elmhurst and would continue to assist in making milk available to Elmhurst as needed to satisfy Class I demand. GNEMMA's member cooperatives are: Agri-Mark, Inc.; Dairylea Cooperative, Inc.; Dairy Farmers of America, Inc.; Land O'Lakes, Inc.; Maryland and Virginia Milk Producers Cooperative Association, Inc.; St. Albans Cooperative Creamery, Inc.; Upstate Niagara Cooperative, Inc.; and Dairy Marketing Services, LLC. All of these organizations are cooperative association handlers regulated under the provisions of the Order who must comply with the shipping provisions under Section 1001.7 (c) (1) and (2).

Milk Production

The August 2013 milk production report, issued by USDA National Agricultural Statistics Service (NASS) on September 20, 2013, indicated that milk production in the state of New York was 4.2 percent greater than the volume of milk produced in New York in August 2012. In fact, New York's August 2013 milk production was the largest volume of milk produced in the month of August going back to the Order's inception in 2000. The other major northeast dairy states of Pennsylvania and Vermont reported year over year production gains of 3.5 percent and 2.8 percent, respectively, all greater than the reported average for the top 23 dairy states of 2.7 percent. While some reduction in milk production typically occurs as the fall months progress, due to changing feedstuffs and seasonal production patterns, there is currently no evidence of upcoming widespread and significant declines in milk production in New York State or the greater Northeast region. Thus, it appears that the reported milk production tightness experienced by Elmhurst was more of an isolated incident for the particular handler in question rather than an issue for all handlers with fluid milk operations pooled on the Order.

Decision

In light of Elmhurst's withdrawing their request, industry initiatives to provide adequate supplies of milk to Class I customers, and our evaluation of market conditions, an increase in the shipping percentages for October and November 2013 will not be implemented. As provided under the terms of the Northeast Order under Section 1001.7(g), the Market Administrator may review the need for further adjustment on his own initiative or at the request of interested parties.

/s/ Erik F. Rasmussen

Attachments

September 11, 2013

VIA E-Mail – erasmussen@fedmilk1.com
pfredericks@fedmilk1.com

Mr. Erik Rasmussen
Mr. Peter Fredericks
Northeast Marketing Area
302A Washington Avenue Extension
Albany, NY 12203-7303

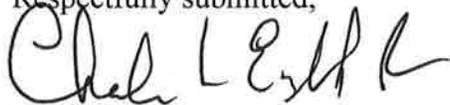
Re: Shipping Requirements Investigation

Dear Messrs. Rasmussen and Fredericks:

On behalf of Elmhurst Dairy, this letter requests an increase in the applicable shipping percentages under § 1001.7(g) of Order 1 to 30 percent for the months of October and November, 2013. In addition, based upon this request, we respectfully request that your office investigate immediately the need for the proposed adjustment.

Elmhurst Dairy will during your investigation offer its specific arguments in support of the requested increase to 30 percent for those two months. In the meantime, Elmhurst Dairy notes that many in the industry did not anticipate the post-September 1 significant drop in on-farm production in the Northeast which has led to little or no additional, but needed, milk being made available to some fluid plant operators. We understand that in order to meet existing fluid milk demands, milk will likely have to be imported from Minnesota. At the same time, non-Class I uses that draw from the pool continue to obtain milk supplies. With Class I plants paying by far the highest regulated minimum price for raw milk and yet unable to obtain all the milk they need, the present situation certainly qualifies as a disorderly marketing condition that should be immediately remedied especially as the lack of raw milk is likely going to mean that schools in New York City will not receive needed supplies now.

Respectfully submitted,



Charles M. English, Jr.



Suite 800
1919 Pennsylvania Avenue NW
Washington, DC 20006-3401

Charles M. English, Jr.
202.973.4272 tel
202.973.4472 fax

ChipEnglish@dwt.com

September 25, 2013

VIA E-Mail – erasmussen@fedmilk1.com
pfredericks@fedmilk1.com

Mr. Erik Rasmussen
Mr. Peter Fredericks
Northeast Marketing Area
302A Washington Avenue Extension
Albany, NY 12203-7303

Re: Withdrawal of Shipping Requirements Request

Dear Messrs. Rasmussen and Fredericks:

On behalf of Elmhurst Dairy, this letter withdraws its September 11 request for an increase in the applicable shipping percentages under § 1001.7(g) of Order 1 to 30 percent for the months of October and November, 2013. Elmhurst Dairy reserves the right to re-submit a request in a future month, including if necessary October for November, depending on market conditions.

Elmhurst Dairy did experience significant fluid milk supply disruptions in mid-September, 2013, that appear to have been due to unanticipated drops in on-farm milk production and/or increased demands from other class uses. Our discussions with your office, your office's efforts to make milk available for the Class I use that generates positive pool income for dairy farmers under the Federal Order together with our September 11 submission and industry's response, appear to have resulted in just enough milk being made available now. However, there remains no margin for error, and it must be noted that Elmhurst was unable to keep its plant open on schedule and some fluid milk accounts were adjusted downwards because of insufficient milk being made available the week of September 9.

Respectfully submitted,

A handwritten signature in black ink that reads "Charles M. English, Jr." with a stylized flourish at the end.

Charles M. English, Jr.

DWT 22651671v1 0095710-000001

Anchorage
Bellevue
Los Angeles

New York
Portland
San Francisco

Seattle
Shanghai
Washington, D.C.

www.dwt.com

LAW OFFICES OF MARVIN BESHORE

130 State Street, P.O. Box 946
Harrisburg, PA 17108-0946

Telephone: (717) 236-0781
Facsimile: (717) 236-0791

Marvin Beshore
mbeshore@beshorelaw.com

September 25, 2013

Via email: erasmussen@fedmilk1.com

Mr. Erik F. Rasmussen
Federal Milk Market Administrator
Northeast Marketing Area
89 South Street, Suite 301
Boston, MA 02111-2671

Re: Request to increase shipping percentage pursuant to 7 C.F.R. Section 1001.7(c)(2)

Dear Mr. Rasmussen:

This letter is submitted on behalf of the Greater Northeast Milk Marketing Agency (GNEMMA) in response to your solicitation of comments with respect to a request to increase the shipping percentage pursuant to 7 C.F.R. Section 1001.7(c)(2) for the months of October and November 2013. The dairy cooperative members of GNEMMA are: Agrimark, Inc., Dairylea Cooperative Inc., Dairy Farmers of America, Inc., Land O'Lakes, Inc., Maryland and Virginia Milk Producers Cooperative Association, Inc., St. Albans Cooperative Creamery, Inc., Upstate Niagara Cooperative, Inc. and Dairy Marketing Services LLC. All of these organizations are qualified cooperative associations marketing producer milk on Order 1.

GNEMMA understands that the requestor has withdrawn or will be withdrawing its request. In our view, that action is appropriate and properly reflects that market conditions do not warrant an increase of the shipping percentage from 15% to 30% as provided in Section 1001.7 (c)(2) for the months of October and November 2013. We would specifically note that for August, USDA-NASS reported that milk production both regionally and nationally was quite strong. In the northeast states, production was up 4.2% in New York, 3.5% in Pennsylvania, and 2.8% in Vermont.

The request to increase the shipping requirements appears to have reflected the unique needs of one plant in early September. When called to our attention, the GNEMMA cooperatives, with support in several instances from customers as well, stepped up and made milk available to the plant so that its needs for Class I supplies were filled. As suppliers to the majority of distributing plants on the order, GNEMMA is not aware of other plants with similar supply shortfalls.

Mr. Erik F. Rasmussen
September 25, 2013
Page 2

While there were some spot declines in milk production in some portions of the milkshed in late August and early September which were modestly greater than usual seasonal declines, milk production has recovered.

In summary, GNEMMA is of the view that the northeast marketplace is in balance and fully served under the current shipping requirements.

Thank you for considering our comments.

Very truly yours,

A handwritten signature in black ink that reads "Marvin Beshore". The signature is written in a cursive, flowing style.

Marvin Beshore

MB: amb
cc: (via email only)
Peter Fredericks (pfr fredericks@fedmilk1.com)
GNEMMA member cooperatives