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States
Department
Of
Agriculture

Agricultural Marketing
Service
Dairy Programs

FEDERAL MILK ORDER No. 1
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August 23, 2011

TO: Pool Handlers on the Northeast Order
FROM: Erik Rasmussen Market Administrator, Boston, Massachusetts
SUBJECT: Shipping Requirements Under Section 1001.7 (g)

On August 15, 2011, this office received a request from Dairy Marketing Services (DMS), a cooperative handler who pools more than 50 percent of the milk on the Northeast Order, to increase the shipping percentage, under Section 1001.7 (c) (2) of the Order, to *“at least 30 percent for the months of September, October, and November of 2011.”*

The petitioners cited seasonally lower milk production, year-over-year declining farm production in the Northeast, manufacturing handlers keeping their milk for their own plants, and growing dairy production demand as factors contributing to the tightness in the milk supply. Section 1001.7(g) of the Order allows the Market Administrator to adjust the shipping percentages if, following an assessment of market conditions, it is determined that such adjustment is necessary to encourage needed shipments or to prevent uneconomic shipments. On August 16, 2011, a notification of the request was sent to pool handlers by the Market Administrator while also inviting comments, input, and data regarding the proposed increase.

Handler Comments

Pool handler HP Hood, LLC. (Hood) was supportive of the request noting that due to drought conditions the Southwestern U.S., a region that traditionally serves as source of additional milk supplies to markets in the Southeastern U.S., will not have extra milk available this fall. As a result, milk marketers in the Southeastern, U.S. will look to milk suppliers in the Northeast as a replacement region for needed milk. In addition, Hood noted slowing milk growth in the Northeast, while at the same time, demand for milk from new or expanded dairy operations within the region has grown dramatically. Hood expressed their concern that fluid plants in the region would be forced to pay “give up” premiums, in addition to the Class I differential and current voluntary premiums, in order to be able to obtain milk volumes necessary to meet school start-up and holiday demand.

Pool handler Byrne Dairy Inc. (Byrne) responded to the request for comments expressing their support for an increase in the required shipping percentages beginning in September. Byrne noted significant uncertainty with respect to both the supply and price of supplemental milk that the firm needs to fully supply their fluid milk customers. Byrne also noted a lack of transparency with respect to the current reporting associations that milk suppliers use to comply with the shipping requirements, questioning if an increase to 30 percent would in fact make more milk available to Class I handlers.

Pool handler Queensboro Farms Products, Inc. (Queensboro) submitted comments in opposition to any increase in the shipping percentages for the months of September, October, and November, 2011. Queensboro noted that in years past when milk supplies were tight, Queensboro would receive calls from Class I plants in August asking for shipments in September to cover their needs. Queensboro stated they have not received any such calls nor were aware of anyone else receiving requests for Class I milk. Queensboro also was concerned with the extremely short notice of the request, noting that any changes in the Class I percentage would require significant work in sales, transportation, and logistics.

Cooperative handler Agri-Mark, Inc. (Agri-Mark) responded to the request for comments by stating that they opposed any increase in the minimum shipping percentage for the months of September, October, and November of 2011 at this time. AgriMark stated that the request to increase the shipping percentages was a surprise because the current and anticipated demand for Class I milk in the Northeast does not indicate the need for such action. AgriMark noted that the cooperative's milk sales to Class I customers were lower in total and individually to most regular customers in July 2011, compared to July 2010. AgriMark noted that the cooperative has not received any requests for spot milk at this time while stating that under a typical year (when no increases in shipping requirement occurred) some requests usually develop by now. It is their conclusion that if anything, demand appears to be less than in the past and not more, noting that they have not heard of any unusual or significant increase in milk needs expected during the September through November period from their customers.

Cooperative handler Maryland and Virginia Milk Producers Cooperative Association, Inc. (Maryland and Virginia) submitted remarks opposing any increase in the minimum shipping percentages for the months of September, October, and November 2011, at this time. Maryland and Virginia cited Northeast Order statistics that indicate the volume of Class I sales dropped by 8.3 percent while the total milk pooled on the order declined by less than 5 percent. The cooperative also reported that based on their data and through discussions with other milk suppliers, Maryland and Virginia believes that needed shipments are available already, are being provided, and will continue to be provided this autumn without the need to increase the minimum shipping percentage.

Cooperative handler Upstate Niagara Milk Cooperative, Inc. (Upstate Niagara) submitted remarks opposing the proposed increase in the shipping requirements for the September–November 2011 period, at this time. Upstate Niagara stated that they did not have any indication that a request was going to be submitted and has serious questions as to the possible negative impact from either uneconomic movements of milk or forced depooling if the increase was approved. The cooperative also noted that they have not had any request for additional spot milk from Class I handlers recently that would indicate an impending shortage, while also citing order statistics that report recent declines in Class I utilization on the Northeast Order. Upstate Niagara stated the need for more time by handlers in the market to fully consider whether increased shipping requirements are truly needed.

Non-pool plant Lactalis American Group (Lactalis) submitted comments opposing the proposed increase in the shipping requirements. While noting that Lactalis is a non-pool plant, the volume of milk going to the plant is pooled on the Order by their suppliers. Lactalis noted that any potential interruption in their ability to supply the firm's plant is a serious concern. Lactalis also noted Order statistics indicating declining Class I sales and was concerned about the suddenness of the potential change. Such short notice could make it very difficult to readjust milk supplies if the change were to be announced one day before the start of a new month.

Determination

In reviewing the monthly volumes of producer milk pooled on the Northeast Order, there does appear to be some tightening of supplies, a proposition advanced by the proponents, at least for the months of June and July (most recent pool data available) where pooled producer receipts dropped by 5.4 and 4.8 percent, respectively, compared to the same month prior year. That is a reversal of the pattern evidenced during the first 5 months of the year where the average year-over-year increase in monthly producer milk receipts pooled on the order equaled a gain of 6.5 percent.

Of perhaps more importance for this investigation is the recent pattern of declines in the volume of milk utilized in Class I for the Northeast Order. During June and July 2011 the pounds of milk utilized in Class I dropped by 36.8 and 70.4 million pounds, respectively, from the volumes utilized in Class I during June and July 2010. For the second time in the Northeast Order's history, Class I utilization was below 800 million pounds. July 2011's 773 million pounds of Class I were a record low for the Order, surpassing the previous low mark set in June. Although a pool distributing plant pooled on the Northeast Order during 2010 switched to partially regulated status in March 2011, these significant declines cannot be largely attributed to this change in a plant's regulatory status.

July's pounds utilized in Class I compared to July 2010 were a drop of 8.3 percent. The total volume of producer milk pooled on the Order in July 2011 declined by 100.3 million pounds, or a drop of 4.8 percent from July 2010. Milk used in non-Class I uses was lower by 30 million pounds, on a year over year comparison, for a decline of 2.4 percent. The attached chart "*Average Daily Class I Sales in the Northeast Marketing Area*" is based on Order pool data and pictorially reveals average daily Class I sales in 2011 falling below the average of the prior five years. Under Section 1001.7(c) of the Order, the required shipping percentages during September, October, and November

already are scheduled to increase to 20 percent from the 10 percent requirement in place during the remaining months of the year. This existing Order provision will bring forth additional milk volumes for Class I handlers above the levels of current months, which coincides with the traditional September increase in Class I sales.

Based on the comments submitted by pool handlers and a non-pool plant purchasing pool milk, the severity of a tight milk situation and impending inadequate supplies of milk for Class I users is not explicitly clear. The comments opposing a temporary increase in the minimum shipping under Section 1001.7 (c) are supportive of the analysis conducted by this office using pool data that indicates declining Class I utilization. In addition, it is noteworthy that the Market Administrator had not been contacted by any other pool handler concerned about impending tight supplies and adequate milk available for Class I usage prior to this request.

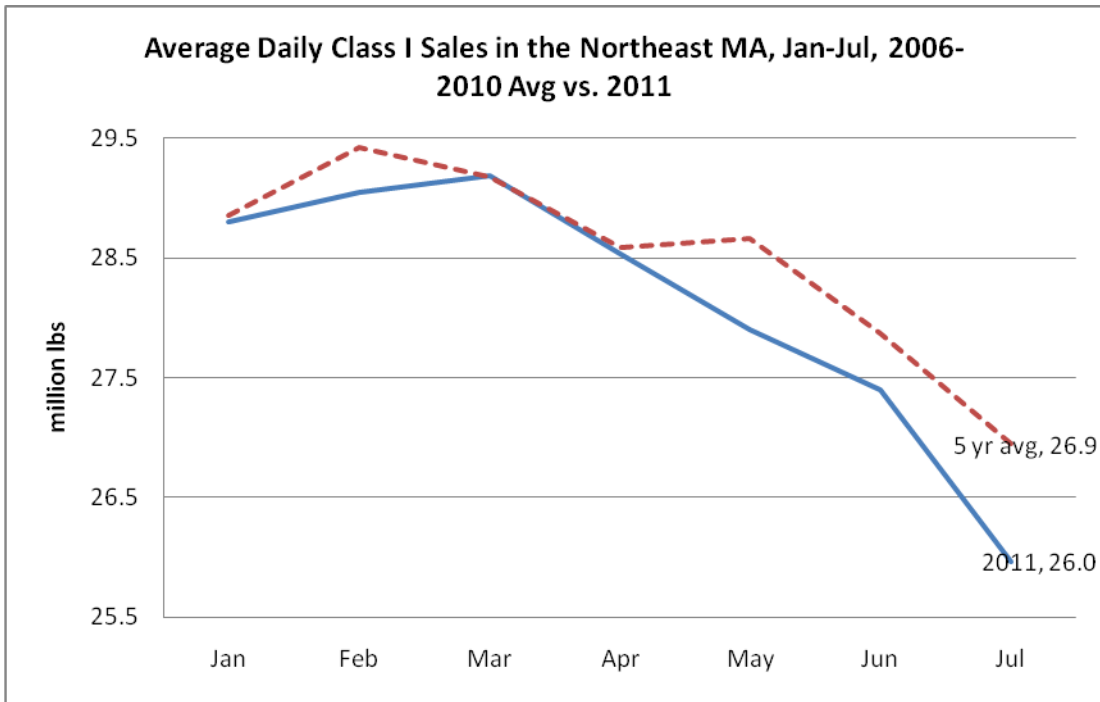
As noted in the comments provided by AgriMark and others, if the shipping percentage were increased without appropriate market demand to utilize added milk supplies that administratively were required to be delivered to Class I handlers, uneconomic movements of milk could occur rather than such movements being prevented. For these reasons, the request to increase the shipping percentage for the months of September, October, and November of 2011 to at least 30 percent is denied at this time; however reevaluation of the need for an adjustment for October and November should occur in subsequent months. Therefore, the Market Administrator is soliciting comments, input, and data from handlers and cooperatives pooled on the Order regarding the proposed increase for the months of October and November of 2011. Should you wish to provide any input that will be utilized in the decision making process, we ask that you submit such comments by **September 12**.

If this subsequent investigation shows that an adjustment of the shipping percentages is appropriate, the Market Administrator shall issue a notice stating the amount of the temporary adjustment and the applicable effective period. **Please fax or email remarks to: 518-464-6468, or MABoston@fedmilk1.com no later than 4 p.m. on**

September 12, 2011.

Thank you for your cooperation.

/s/ Erik F. Rasmussen



Source: Northeast Order pool data