

Federal Order Hearing
Docket No. AO-14-A78, et al.
Testimony of Erick Metzger
National All-Jersey Inc.
6486 E. Main St., Reynoldsburg, OH, 43068

My name is Erick Metzger, and I serve as the General Manager of National All Jersey Inc. (NAJ), a position I have held for the past five years. I was raised on a dairy farm in Indiana, earned a Bachelor of Science degree from Purdue University in 1982 and a MBA from Franklin University in 1999. I was employed by the American Guernsey Association for 10 years, including five years as its CEO. I have been with the Jersey organizations for the past 16 years. I have testified and filed comments in conjunction with previous federal order hearings.

NAJ is a national membership organization of over 1,100 dairy producers and others interested in supporting equitable milk pricing. Approximately 30 percent of NAJ members own cows other than Jerseys. NAJ's milk marketing policy is to advocate for equitable milk pricing and for programs that price milk based on its most valuable components in accordance with their use in consumer products. NAJ is an affiliate member of both the National Milk Producers Federation and the International Dairy Foods Association.

Most NAJ members market their milk through cooperatives. Some members market their milk directly to pool distributing plants. Other members market directly to proprietary non-pool plants. Some members opt to process their own milk, and we expect that more may choose to do so in the future. It is important to note that members who have chosen to process their own milk fall into two broad categories. One group can be defined using the common definition of "producer-handler" in that they process their milk for fluid consumption. Others process their own milk into other products, particularly artisan cheese, which they market for premium prices. Given that the proposals being considered in this hearing will impact many of its members, NAJ is compelled to voice its support of and opposition to certain of these proposals.

In broad terms, NAJ agrees with the two concepts put forth in Proposal 2, that some Class I milk needs to be exempt from Federal order pooling, and that there needs to be a limit on the exemption. NAJ's producer-handler members operate in several of the Federal orders, are of varying sizes, and have vast differences in operating history. Some of these handlers rely on only their own-farm milk, others regularly supplement their own-farm milk with purchased milk, while others only purchase outside milk on an as-needed basis. Looking to the future, if they are able to grow sales, these producer-handlers will need to weigh the options of growing the supply of their own-farm milk versus purchasing milk from other producers.

In preparing for this hearing, I consulted with the following NAJ producer-handler members. These six operations are not the only NAJ producer-handler members, but provide a representative sample of those members.


Mapleline Farm in Hadley, MA, has Class I sales in Order 1. Their own-farm milk comes from their 75 cow herd, and they regularly supplement this production with milk purchased from a neighboring herd. Mapleline started their bottling operation in 1995. Most months Mapleline qualifies as an exempt plant, keeping their sales under the 150,000 pounds per month threshold. However, there have been months when distributions have exceeded 150,000 pounds. The existing 150,000 pound limit on exempt plants serves as an impediment to them being able to grow their business.

High Lawn Farm in Lee, MA, has Class I sales in Order 1. Their own-farm milk comes from their 190 cow herd. High Lawn Farm's bottling operation began in 1923. Most months High Lawn Farm's herd produces all the milk needed for their sales, and they are exempt from pooling and pricing provisions as a producer-handler. However, there have been a few months when their herd's production has needed to be supplemented with purchased milk.

Bush River Farm in Newberry, SC, has Class I sales in Order 5. Bush River Farm's own-farm milk comes from their 400 cow herd. This dairy started bottling milk in 2004, and has not relied on any purchased milk. They are exempt from order pooling and pricing provisions as a producer-handler.

Kilgus Dairy in Fairbury, IL, will have Class I sales in Order 32. Slated to begin operation in June 2009, Kilgus Dairy will process milk from their 100 cow herd. Initially they do not plan to buy any milk from other producers, and will be exempt from current order pooling and pricing provisions as a producer-handler and/or as an exempt plant.

Garry's Meadow Fresh Jersey Milk in Mulino, OR, will begin their bottling operation this month. Their sales will be in Order 124. The milk will come from their 60 cow herd. They do not plan to buy any outside milk. They will be exempt from order pooling and pricing provisions as a producer-handler and/or as an exempt plant.

Fish Trap Dairy #2, d/b/a ^{Brook } ~~Book~~ Creamery, in Lynden, WA, has Class I sales in Order 124. They began their bottling operation in February 2007 with 6 cows. The business has grown to include 60 cows today. They use only their own-farm milk with no outside milk purchased. They are exempt from order pooling and pricing provisions as a producer-handler and/or an exempt plant.

While NAJ did not submit any proposals for this hearing, we did review the proposals included in the hearing notice. In considering how the proposals would impact the current and future operations of existing and potential NAJ producer-handlers, as well as the membership in general, the NAJ board of directors approved the following concepts:

- To support proposals advocating that handlers with own-farm milk production be regulated as partially regulated distributing plants by the Federal milk market orders. Own-farm milk production up to 3 million pounds per month should be exempt from order pooling provisions. Own-farm milk production in excess of 3 million pounds per month and any purchased milk should be subject to the respective order's pooling provisions.
- To oppose provisions in proposals that would base pooling exemptions on historical handler sales, also known as 'grandfathered' exemptions.
- To oppose proposals seeking to establish individual handler pools across all orders.

1. Partially Regulated Distributing Plants

NAJ supports, with qualification, Proposals 17 and 23. The qualifications are as follows:

- In Proposal 17 NAJ would replace the language that calculates a volume of exempt own-farm milk dependant on historical sales limited to 3 million pounds per month, with a simple limit on the exemption at 3 million pounds per month of own-farm milk.
- In Proposal 23 NAJ would add a limit on exempt own-farm milk of 3 million pounds per month, whereas Proposal 23 has no limit on exempt own-farm milk.

NAJ believes the current regulations covering producer-handlers and exempt plants to be inequitable. Handlers with own-farm milk can be treated very differently depending on the order in which they have sales, whether or not they purchase any outside milk, and the volume of outside milk purchased. For example, consider the situations outlined by NAJ's current producer-handlers. As long as High Lawn Farm relies on only their own-farm milk, they can remain exempt from order pooling and pricing obligations regardless of how much of their own-farm milk they market. Meanwhile, their neighbor, Mapleline Farm, has to limit their sales to less than 150,000 pounds per month to retain their exemption due to buying milk from another farm.

By expanding the existing regulations pertaining to partially regulated distributing plants to include handlers with own-farm milk, all handlers utilizing own-farm milk will be treated the same. Handlers processing only their own-farm milk will see no change to their current order pooling regulations for their first 3 million pounds of milk per month, if the NAJ modification is included. Handlers utilizing more than 3 million pounds of own-farm milk will have their pool obligation based only on the amount of milk over the 3 million pound exemption, instead of on all of the own-farm milk.

Handlers who regularly rely on purchased milk in addition to their own-farm milk will be treated more equitably as partially regulated distributing plants. Current regulations allow producer-handlers in some orders to retain their exemption as long as purchased milk remains less than a set amount. Producer-handlers in other orders lose their exemption if any outside milk is purchased. The partially regulated distributing plant option will allow own-

farm milk under 3 million pounds per month to be exempt from order pool obligation even if outside milk is purchased. Yet, the pool will be compensated for the purchased milk the same as if it had been received by a pool distributing plant.

NAJ believes that exempting the first 3 million pounds of own-farm milk is equitable for producer-handlers that use:

- Less than 3 million pounds of own-farm milk,
- More than 3 million pounds of own-farm milk, and
- A combination of own-farm milk and purchased milk.

Producers who do not process their own milk will benefit from the pool receipts of own-farm milk in excess of 3 million pounds per month, plus any milk purchased by producer-handlers. In addition, if regulations are changed so that purchasing outside milk will not cause handlers to lose the exemption for their own-farm milk, those processors may be more likely to purchase outside milk.

2. Basing Pool Exemption on Historical Sales

NAJ's opposes the section of Proposal 17 that outlines the calculation of the amount of own-farm milk to be considered exempt, all of Proposal 20 and all of Proposal 26. These proposals advocate using a handler's historical processing and sales of own-farm milk to establish an exemption from future pool obligations.

NAJ opposes these so-called 'grandfather' clauses for two reasons. First, several of NAJ's producer-handler members are new processors. Fittingly, they began, or will begin, their operations on a limited scale in order to mitigate the risk associated with the enterprise. To their credit they have been (or may be) able to grow their sales and operations. Previous months' sales volumes will not adequately reflect their current sales, which are in excess of the average from previous months. These handlers would be penalized for their success if historical sales are used to establish a volume exemption to be used from a given point in time. In addition, new processors do not have previous sales figures to grant them a base although they planned their bottling operations under current regulations.

Second, NAJ does not believe it is equitable to treat existing producer-handlers differently than producers that may want to become producer-handlers in the future. Granting pool exemptions to existing producer-handlers would, in essence, be giving them an advantage over others who may want to become producer-handlers in the future.

3. Establishing Individual Handler Pools

NAJ opposes Proposal Number 25 to establish individual pools across all orders. In 2008 FMMO Class I utilization was 39% across all orders. NAJ believes that having the higher Class I receipts shared only among producers serving the Class I market will result in two classes of producers. The 'haves' will have access to Class I markets and will receive higher prices for their milk. The 'have nots' without access to Class I markets will receive lower prices for their milk.

Individual handler pools will require a limited amount of manufacturing milk to be associated with Class I plants as a reserve supply of milk. However, without market-wide pooling there will be little incentive for most manufacturing milk to be qualified for a milk marketing order and subject to regulated pricing. In fact, it is easy to envision approximately half of the milk currently in the Federal milk market orders becoming unregulated milk. A system with half the milk regulated and half not, is essentially an unregulated system, and would embody the very definition of disorderly marketing. NAJ echoes the concerns on this issue provided during previous testimony from Drs. Roger Cryan and Robert Yonkers.