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635 Elliot Avenue West  
P.O. Box 79007-7907  
Seattle, WA 98119

June 23, 2004

Angela C. Snyder  
Office of the Deputy Administrator, Poultry Programs  
Agricultural Marketing Service of USDA  
1400 Independence Avenue, S.W.  
STOP 0256, Room 3932-South  
Washington, DC 20250-0256

**(877) NDA-MILK**  
Phone: (206) 286-6700  
Fax: (206) 298-6892

RE: Docket No. PY-02-006  
Proposed Rules, Organic Producers and Commodity Promotion Assessments  
Published in the Federal Register, April, 26, 2004, pp 22690-22702

To whomever it may concern:

These comments are submitted in response to the April 26, 2004 invitation in the Federal Register, regarding the proposed amendments to commodity research and promotion programs which would exempt producers and marketers of "solely 100-percent organic products" from paying commodity promotion assessments.

These comments are submitted by Northwest Dairy Association, a regional cooperative marketing organization which processes the dairy commodity promotion assessments for nearly 700 dairy farm families in Washington, Oregon, and Idaho. 28 of these dairies ship organic-certified milk, and there is significant interest in expanding the organic milk programs we participate in. Accordingly, we wish to be able to clearly explain the implications of the proposal, and would like to make comments on certain sections of the proposed rule.

We believe the proposal states:

- A dairy producer who qualifies as an organic farm under USDA rules and who does not sell any conventional or non-organic products can be exempted from the promotion and research assessments on milk. This is done by application to the National Dairy Board.

- The Board “shall” grant a certificate of exemption within 30 days of the application. Once the handler (which would be our role here at NDA) receives the exemption, the handler could discontinue the collection and remission of funds to the National Dairy Board. It appears the state funding requirements would remain unchanged.

Our primary concern is that an organic producer of one commodity seemingly would lose the exemption by selling another commodity in a conventional manner. Many organic producers sell surplus or cull animals in conventional markets for example, a “sick” animal may be “saved” with antibiotics, but would then no longer be suitable by the organic dairy). The organic certification rules for dairies allow for these sales. It would be inconsistent (and therefore may not have been USDA’s intent) if the rules covering the assessment exemption were to exclude them.

We suspect that the intent of Congress, and the intent of the rule, would require a dairy producer must ship all of his or her milk through organic channels in order to be exempt from the assessment, but that other commodities were not intended to be a factor in that determination. This should extend to sales of unrelated commodities (for example, dairy farms often grow corn commercially but may not have access to organic marketing channels)

We recommend that the rule allow an otherwise exempt dairy producer, who sells calves or cows or other farm livestock to buyers who were not requiring organic certification, should still be exempt from the dairy promotion check-off.

We also recommend the rule allow producers who produce 100% certified organic milk and market their milk through a cooperative to one or more firms for use in organic products “most of the time” be exempt from paying the national promotion fees, even in the event that there may be some days when there is insufficient demand for all of their organic supply. On such days, some portion of what they buy may be marketed as surplus into a conventional channel. In that case, the milk would be marketed to a handler like NDA as organic, even though we may use it in conventional channels. The rule should clarify the focus on its being continuously eligible for organic markets, rather than requiring that it be marketed through organic market channels each and every day.

However, if an otherwise exempt dairy producer produces and sells some of their farm’s milk in conventional channels, they should not be exempt from paying the national dairy promotion fee.

We appreciate the opportunity to suggest these clarifications in the final rule. As you can anticipate, the answer to those questions will determine how efficiently an

organization like ours can market organic milk, and we urge an interpretation that provides that flexibility.

Sincerely,

**received**  
6-24-04

Douglas C. Marshall,  
Sr. Vice President

cc: NDA Board of Directors  
Mike Brown  
Antone Mickelson  
Larry Hansen