

CHAPTER 2

UNITED STATES DEPARTMENT OF AGRICULTURE

Dairy Programs of USDA's Agricultural Marketing Service (AMS) has the day-to-day oversight responsibilities for the Dairy Board and the Fluid Milk Board. Dairy Programs oversight activities include reviewing and approving the Dairy and Fluid Milk Boards' budgets and budget amendments, contracts, advertising campaigns, and investment plans. Approval of program materials is also a responsibility of USDA. Program materials are monitored for conformance with their respective Acts and Orders and with other legislation such as the Nutrition Labeling and Education Act.

Dairy Programs continues to ensure that the collection, accounting, auditing, and expenditure of generic promotion funds is consistent with the enabling legislation and orders; to qualify State or regional dairy product promotion, research, or nutrition education programs (Qualified Programs); and to provide for evaluation of the effectiveness of both programs' advertising campaigns. USDA also assists the Boards in their assessment collection, compliance, and enforcement actions. Other USDA responsibilities relate to the nominating and appointing of Board members, amending the orders, conducting referenda, and conducting periodic program audits. USDA representatives attend full Board and Board committee meetings.

National Dairy Promotion and Research Board Oversight

NOMINATIONS AND APPOINTMENTS

The 36 members of the Dairy Board who administer the program serve 3-year terms, with no member serving more than two consecutive terms. Dairy Board members are selected by the Secretary of Agriculture from nominations submitted by producer organizations, general farm organizations representing other producers, Qualified Programs, or other interested parties.

Thirty-five nominations were received by USDA for the 12 Dairy Board members whose terms expired October 31, 2002. A press release issued on October 15, 2002, announced the appointment of six new members and six incumbents. All will serve 3-year terms ending October 31, 2005. Newly appointed members were: Lester E. Hardesty, Greeley, Colorado (Region 3); Cynthia R. Langer, Faribault, Minnesota (Region 5); William J. Herr, Greenwood, Wisconsin (Region 6); Pam Bolin, Clarksville, Iowa (Region 7); Michael M. Ferguson, Coldwater, Mississippi (Region 8); and Deanna S. Stamp, Marlette, Michigan (Region 9). Re-appointed to serve second terms were: John Zonneveld, Jr., Laton, California (Region 2); Neil A. Hoff, Windthorst, Texas (Region 4); Patricia M. Boettcher, Bloomer, Wisconsin (Region 6); Rita P. Kennedy, Valencia, Pennsylvania (Region 11); Audrey G. Donahoe, Frankfort, New York (Region 12); and Claude J. Bourbeau, St. Albans, Vermont (Region 13).

Lists of current Dairy Board members appear in **Appendix A-1**. **Appendix B-1** is a map of the contiguous 48 States depicting the 13 geographic regions under the Dairy Promotion and Research Order (Dairy Order).

FOREIGN AGRICULTURAL SERVICE

The Secretary of Agriculture has delegated oversight responsibility for all foreign market development activities outside the United States to the Foreign Agricultural Service (FAS) (7 CFR 2.43(a)(24)). FAS reviews the USDEC foreign market development plan and related export contracts. USDEC export contracts also are reviewed by AMS Dairy Programs to ensure conformance with the Dairy Production Stabilization Act of 1983 (Dairy Act) and Dairy Order and with established policies. The USDA's Foreign Market Access Program and the Market Promotion Program provided matching funds to USDEC for dairy product promotion and market research in Japan, Mexico, Southeast Asia, South Korea, and Latin America.

CONTRACTS

The Dairy Act and Dairy Order require that all contracts expending producer funds be approved by the Secretary (7 CFR 1150.140). During 2002, USDA reviewed and approved 172 Dairy Board and DMI agreements, amendments, and annual plans. Funding approvals were from the 1996, 1997, 1998, 1999, 2000, 2001, and 2002 fiscal periods. See **Appendix E** for the contractors and the initiatives approved by USDA during 2002.

CONTRACTOR AUDITS

During 2002, DMI retained the certified public accounting firm of KPMG Peat Marwick to audit the records of the following entities for projects in dairy foods research, media and advertising services, marketing research services, public relations services, and export (through USDEC): Southeast Dairy Research Center, Media Management Services Inc., J. Brown and Associates, Weber Shandwick, Inc., and Pacrim Associates, Ltd., respectively. DMI is implementing the audit recommendations for improving management and internal controls over contracts.

COLLECTIONS

The Dairy Act specifies that persons who pay producers and producers marketing milk directly to consumers, commonly referred to as "responsible persons," shall remit assessments to the Dairy Board or to Qualified Programs for milk produced in the United States and marketed for commercial use.

The Dairy Act provides that dairy farmers can direct up to 10 cents of their 15-cent per hundredweight assessment to Qualified Programs. During 2002, the Dairy Board received about 5.13 cents of the 15-cent assessment.

COMPLIANCE

Compliance by responsible persons in filing reports and remitting assessments continues in a timely manner and at a high rate. Only minor differences were discovered when comparing the audit results to what was reported by the responsible persons. The Dairy Board also verifies that the credits claimed by responsible persons are actually sent to Qualified Programs. This verification is done by contracts with each Qualified Program.

When noncompliance exists, the Dairy Board takes initial action on the matter. If the Dairy Board is unsuccessful in resolving the violation, the matter is referred to USDA for further action. In 2002, USDA assisted the Dairy Board in collecting approximately \$39,000 in delinquent assessments.

QUALIFIED PROGRAMS

USDA reviewed applications for continued qualification from 60 Qualified Programs. A list of the 60 active Qualified Programs is provided in **Appendix G**. In line with its responsibility for monitoring the Qualified Programs, USDA obtained and reviewed income and expenditure data from each of the Qualified Programs. The data reported from the Qualified Programs are included in aggregate form for 2001 and 2002 in **Tables 1-2 and 1-3**.

National Fluid Milk Processor Promotion Board Oversight

NOMINATIONS AND APPOINTMENTS

The 20 members of the Fluid Milk Board serve 3-year terms, with no member serving more than two consecutive terms. Fluid Milk Board members who fill vacancies with a term of 18 months or less are permitted to serve two additional 3-year terms. Fluid Milk Board members are selected by the Secretary from nominations submitted by fluid milk processors, interested parties, and eligible organizations. In a news release issued on June 5, 2003, the Secretary of Agriculture announced three reappointments, three appointments to a first term after filling a vacancy lasting less than 18 months, and one new appointment to the Fluid Milk Board. Reappointed to serve a second term were James W. Turner, Memphis, Tennessee (Region 9); Richard Walrack, City of Industry, California (Region 15); and Robert E. Baker, Omaha, Nebraska (At-Large Public). Appointed to serve their first full terms after filling a vacancy lasting less than 18 months were Michael F. Nosewicz, Cincinnati, Ohio (Region 3); William R. McCabe, Orrville, Ohio (Region 6); and Lawrence V. Jackson, Pleasanton, California (Region 12). Newly appointed to serve her first term was Susan D. Meadows, Dallas, Texas (At-Large Processor). The reappointed and newly appointed members were seated at the July 24–26, 2003, Fluid Milk Board meeting.

Five vacancies occurred on the Fluid Board due to company mergers and one resignation. The Fluid Milk Promotion Order provides that no company shall be represented on the Board by more than three representatives. The positions were vacated by Sylvia C. Oriatti, Rosemont, Illinois (Region 3); Alan L. Faust, Cincinnati, Ohio (Region 6); Michael H. Leb, Walnut Creek, California (Region 12); and Ann Puelz Ocana, Phoenix, Arizona (At-Large Processor). The vacancies were filled by Michael F. Nosewicz, Cincinnati, Ohio; William R. McCabe, Orrville, Ohio; Lawrence V. Jackson, Pleasanton, California; and Michael A. Krueger, Phoenix, Arizona, respectively.

A list of current Fluid Milk Board members appears in **Appendix A-2**. **Appendix B-2** shows a map depicting the 15 geographic regions under the Fluid Milk Promotion Order (Fluid Milk Order).

ORDER AMENDMENTS

The Farm Security and Rural Investment Act of 2002 (Farm Bill) contained some provisions that applied to the Fluid Milk Order. The changes became effective August 1, 2002, and related to fluid milk products processed and marketed commercially as of that date. The first change modified the definition of fluid milk products to be consistent with the definition provided in Federal Marketing Orders. The second change increased the exemption standard for fluid milk processors from 500,000 to 3,000,000 pounds of fluid milk products, processed and marketed in consumer-type packages in the 48 contiguous United States and the District of Columbia on a monthly basis, excluding those fluid milk products delivered to the residence of a consumer. In addition, the Farm Bill removed the Fluid Milk Order's termination (sunset) date of December 31, 2002, from the Fluid Milk Act. This did not require amending the Order.

PROGRAM DEVELOPMENT

The Fluid Milk Board contracted with the International Dairy Foods Association (IDFA) to manage the program. IDFA contracted with Bozell Worldwide, Inc., Siboney Inc., Weber Shandwick, Inc., and Flair Communications, Inc., to develop the Fluid Milk Board's teen advertising, Hispanic advertising and public relations, consumer education/public relations, and promotion programs, respectively.

CONTRACTOR AUDITS

The Fluid Milk Board retained the certified public accounting firm of Synder, Cohn, Collyer, Hamilton & Associates P.C. to audit the records of Bozell Worldwide, Inc., in order to determine if the agency had conformed to the financial compliance requirements specified in its agreement with the Board for the period of January 1, 2001, through December 31, 2001. The Board has worked with Bozell Worldwide, Inc., to resolve the issues noted in the compliance audit. The Board is continuously working to enhance its internal contract control system in order to ensure that the amounts invoiced to the Board are in compliance with established contracts and procedures.

COMPLIANCE

Compliance by fluid milk processors in filing reports and remitting assessments continues in a timely manner and at a high rate. During this fiscal period, no new cases of delinquent accounts have been referred to USDA.