

UNITED STATES DEPARTMENT OF AGRICULTURE
 AGRICULTURAL MARKETING SERVICE
 DAIRY PROGRAMS

APPLICATION FOR QUALIFICATION
 OF
 COOPERATIVE MILK MARKETING ASSOCIATION
 PURSUANT TO SECTION 608c OF THE AGRICULTURAL
 MARKETING AGREEMENT ACT OF 1937, AS AMENDED

INSTRUCTIONS

General. Applications for qualification of a cooperative marketing association under the Federal milk order program are made for several purposes. One is to determine whether an association is entitled to certain privileges and exemptions; another is to establish an association's authority to speak for its members in producer referendums; a third is to confirm that the members of an otherwise qualified association have authorized it to collect the payments due them from the milk handlers to whom they deliver; and a fourth is to determine whether a qualified association is adequately rendering specified marketing services to producers under a particular milk order.

Letter of Application. A partial letter of application is enclosed and needs to be completed on the Association's letterhead. If your application is not for all of these purposes, or relates to the rendering of marketing services under more than one order, the letter should be modified accordingly. The application letter should be signed by an authorized representative of your Association.

Information to be Submitted. The material that should be submitted in support of your application is of two kinds: (1) copies of certain documents, and (2) information regarding your organization and operations. A list of documents to be submitted appears on page 2.

Use of Guide. Matters to be covered in your informational report are listed under several headings in the guide that follows. Some questions may be answered on the guide. Other questions requiring more space should be answered on a separate sheet of paper. Your statements should be complete and should follow the numbering in the guide. Add any information you consider pertinent.

General Requirements. The general requirements for qualification are:

- § The association must include members engaged in the production of Grade A milk.
- § The members must be acting together in marketing milk that is regulated by a Federal milk order, or proposed order.
- § Be a cooperative marketing association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act" (7 U.S.C. 291, 292).
- § Have its entire organization and all of its activities under the control of its members.
- § Have full authority in the sale of its member's milk.

Information in DIVISION A should show whether your Association is in fact controlled by its members. Loss of member control may occur if there is (1) Undue influence by a dealer or its representatives, by other nonmembers, by a clique, or by inactive members; (2) if management people have conflicting interests; (3) if the bylaws are not followed; or (4) if members do not participate substantially in directing Association affairs.

Information in DIVISION B should bring out whether your Association observes the statutory limitation on voting or dividend payments. It should show also whether voting rights are restricted to active producer members.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0581-0032. The time required to complete this information collection is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Information in DIVISION C should describe your marketing function or functions. An association may engage in marketing without physically handling the product. Any one of the following activities may identify the applicants as a milk marketing association:

- \$ Operating a milk plant that receives member's milk.
- \$ Sale of milk pursuant to written contracts between the association and its handler customers.
- \$ Purchase by handlers of member's milk deliveries, not from members as individuals but from the association.

Other information requested in this division relates to the association's method of distributing earnings and to the association's services for the mutual benefit of its members.

Information in DIVISION D is to be provided by associations that operate milk plants. It should give a general view of the applicant's physical marketing of member's milk. It should also show the reliance placed upon others in credit and leasing arrangements, the relative handling of nonmember's products and the identity of the Federal orders under which the plants are regulated.

If your Association applies for the marketing services exemption, you should show in DIVISION E that you actually perform the services. They are those of rendering market information to producers, verifying the weights of their milk deliveries, and sampling and testing the milk for butterfat or other component content. Each one is important. The statements and descriptions given here should be detailed enough to provide a complete picture of your Association's performance.

DOCUMENTS REQUIRED

Copies of the following documents should be submitted:

1. Articles of incorporation, including amendments.
2. Bylaws, including amendments.
3. Samples of each type of stock certificate.
4. Most recent balance sheet and operating statement, with auditor's report and notes.
5. Membership contracts, producer marketing agreements or membership agreements. If more than one form of contract or agreement is in effect, submit copies of each form.
6. Written contracts between the association and the purchasers of its milk.
7. Manager's employment contract.

INFORMATION REPORT GUIDE

DIVISION A -- Association Control (To be answered by all applicants)

- A1. Describe in detail the circumstances under which your Association was organized, including the names of the persons who started the movement and the immediate purpose in forming it.
- A2. Were any milk dealers or their representatives, counsel, or employees instrumental in forming your Association? Are any now affiliated with your Association? If the answer to either question is "yes," give details.
- A3. Describe the requirements for membership in your Association, including the method by which a person becomes a member.
- A4. How are members solicited? If members are solicited for your Association by any buyer or others outside of the Association, give details.
- A5. What persons are eligible to vote on the affairs of the Association?
- A6. How many active members (currently marketing their own milk production through you) did your Association have at the end of last month? How many of these produced Grade A milk?
- A7. What standards are applied in determining that a member is inactive?
- A8. How is a producer's membership terminated?
- A9. How long may a producer be inactive before his/her membership is terminated?
- A10. How often does your Association clear your voting rolls of inactive members?
- A11. How long do inactive members retain the right to vote on any business?

- A12. How many inactive voting members did your Association have at the end of last month?
- A13. Do all of your current Directors meet the requirement for Directors as set forth in the bylaws and articles of incorporation? Explain any deviations.
- A14. List the officers and members of the Board of Directors and for each give the length of service as a director and/or officer, and the date his/her present term of office expires.
- A15. Are any persons other than active members now on the Board of Directors? If so, give details.
- A16. Give the number of meetings and approximate number of members present at meetings during the last 12 months:
- (a) The Board of Directors;
 - (b) The entire organization; and
 - (c) District or regional membership.

DIVISION B -- Capital Stock (To be answered by all associations having capital stock)

- B1. Give the number of shares of each class of capital stock outstanding and the rate of dividends paid on each class in the last two years.
- B2. What voting rights are attached to each class of capital stock outstanding? Tell whether voting rights allow one vote to a share of stock, or are limited to one vote to a member regardless of the number of shares owned.
- B3. Tell how many shares of voting stock are held by:
- (a) Active producers;
 - (b) Inactive producers; and
 - (c) Others (describe).
- B4. What provision is made for retiring voting stock held by inactive producers and others?

DIVISION C -- Marketing (To be answered by all applicants)

- C1. Does your Association have full authority in the sale of your member's milk? If so, cite documents which give such authority.
- C2. Describe in detail the ways in which your Association markets your member's milk: bargaining only, processing in own plant, etc. For a representative month, give the approximate quantities of milk being disposed of in each way.
- C3. Are any of your members also members of another dairy cooperative marketing association? If so, describe what marketing functions your Association performs for such members.
- C4. Are any other associations also members of your Association? If so, list their names.
- C5. Do all members market their milk through your Association?
- C6. Do members have freedom of choice as to which buyer they will deliver milk to?
- C7. Do you guarantee a market for your member's milk?
- C8. Do you guarantee payment for your member's milk?
- C9. Do you take physical possession of the milk? If so, specify in what manner.
- C10. Do you transport milk from member's farms to the buyer's plant?
- C11. How is the butterfat content of milk and milk products sold to dealers determined and priced?
- C12. Does your Association pay commissions or fees on your sales to anyone including employees? If so, explain fully.
- C13. If your Association is a member or patron of any other dairy cooperative marketing association or federated group, name the association or group.

- C14. List the names of the four handlers to whom the greatest volume of milk has been sold during the most recent 12-month period. Indicate the percentage of the total volume of milk handled by you that was sold to each such handler.
- C15. For the last 12 months, give the total value in dollars of:
- (a) All milk and milk products marketed, and
 - (b) Milk and milk products marketed on behalf of members.
- C16. Does your Association collect from handlers the proceeds of sales and pay your members directly?
- C17. Describe any other services performed by your Association for your members in addition to those previously described.

DIVISION D -- Association Plants (To be answered by all associations operating milk plants)

List all plants operated by your association, giving name and location, and indicating:

- D1. The nature of operations conducted at each plant, including the products manufactured, if any.
- D2. Whether each plant is owned or leased. If leased, submit a copy of the lease and other agreements relative to plant operation.
- D3. The Federal milk order under which each plant is regulated. (If none, so state.)
- D4. The number of members and nonmembers delivering to all your plants.

DIVISION E -- Marketing Services (To be answered by applicants applying for marketing services exemption)

- E1. Describe in detail the types and frequency of release of market information, both formal and informal, supplied by you to your members. Submit a copy of the most recent publication.
- E2. Tell how many field persons are employed and what services they perform for your members.
- E3. Tell how many persons you employ for checking weights, sampling, and testing, and indicate for each:
- (a) Training and experience for work being done.
 - (b) Whether connected in any way with any handler buying milk from you. If so, give details.
 - (c) Proportion of their time spent in this work.
- E4. Describe the facilities and equipment used in verifying weights and tests:
- (a) Are the facilities and equipment owned by your Association?
 - (b) If the facilities and equipment are not owned by you, describe arrangements made for their use, indicating whether they are available to you at all times.
- E5. Describe in detail your program of verifying the weights, sampling and testing of your member's milk deliveries. How soon after installation do you check the calibration of member's farm tanks? How often thereafter? What fresh milk sampling do you do?
- E6. What records does your Association maintain of your verification of weights, sampling and testing?
- E7. What reports do you make to your members concerning their weights and tests, and how frequently are such reports sent out? What reports do you make to the market administrator concerning weights and tests?
- E8. Are buyers paying your members on the basis of butterfat tests or other component tests made by you?
- E9. Do buyers make adjustments in payments to your members when you discover discrepancies between their weights and tests and those ascertained by you?

Enclosure

LETTER OF APPLICATION
(Please put this application on your association's letterhead.)

Deputy Administrator, Dairy Programs
Agricultural Marketing Service
United States Department of Agriculture
1400 Independence Avenue SW, Room 2968-South
Washington, D.C. 20250-0225

(Date)

Dear Sir/Madam:

We hereby apply for determination of this Association's qualification as a cooperative association under marketing orders regulating the handling of milk, with authority to represent members in producer referendums, having authorization to collect payment from handlers for member's milk, and rendering specified marketing services to producers under the order(s) for the _____ marketing area(s).

This Association was organized under _____

(Citation of Statute)

of the laws of the State of _____ on _____
(State) (Date)

Our principal office is at _____
(Street and Number)

(City, State, and Zip Code)

(Telephone Number)

(E-mail address)

We submit herewith copies of documents and other information which we certify to be true and correct. We also certify that no officer, director, manager, or principal employee or any of their close relations has a financial interest in any competitor of the Association or in any business organization selling to or purchasing from the Association, other than his own farm. We also certify that the information herein and in the accompanying documents and schedules is true, correct, and complete to the best of our knowledge. The Secretary of Agriculture, or his/her duly authorized representative, may examine our books, records, files, and facilities to verify any of the information submitted and may procure such other information as may be required to determine this Association's qualification.

(Exact Name of Association)

(Name and Title of Authorized Representative)