

United States Senate

WASHINGTON, DC 20510-3205

September 28, 2022

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro,

We write to request that the Government Accountability Office conduct a review of the Federal Milk Market Order (FMMO) Program, and also state regulatory and other dairy support programs. This review would follow up on the 2019 GAO report entitled “Dairy Cooperatives: Potential Implications of Consolidation and Investments in Dairy Processing for Farmers” pertaining to the impact of the consolidation of dairy cooperatives on farmers and the challenges for cooperatives in representing the often competing interests of larger and smaller dairy farms.¹

We would like to ensure that the FMMO Program is being administered in a manner that accounts for the interests of smaller-scale operations, particularly in the regions of the country that are dependent on smaller-scale farms to provide stable and adequate supplies of milk. We would also like to ensure that the FMMO Program is being administered in a manner that does not cause undue burden and cost for state dairy regulatory and support programs that maintain the viability of small-scale farms.

This is particularly important as recent data from USDA National Agricultural Statistics Service revealed that the U.S. has lost nearly 60% of the licensed dairy operation since 2003. The number of dairy farms licensed to sell milk declined from 70,375 to 29,858 between 2003 and 2021, a reduction of 58%.²

A review of individual state data confirms there is in fact an accelerating and alarming trend in the number and rate of loss of dairy farms in the states and regions primarily configured with small and mid-sized operations. As noted by the GAO report, this is a worrying trend in both the Northeast and Midwest. For example, in New York the number of dairy farms declined from 4,190 to 3,430 between 2018 and 2021, a loss of 18%. In Pennsylvania, the number of dairy farms declined from 6,200 to 5,200 for the same period, a loss of 16%. In Michigan, the number of dairy farms declined from 1,520 to 1,140, a loss of 25%. In Wisconsin, the number of dairy farms declined from 8,600 to 6,770, a loss of 20%.³

¹ GAO-19-695R Dairy Cooperatives.

² NASS Reports, *Milk Production*, ISSN: 1949-1557; February, 2020 and February, 2021.

³ Ibid.

This downward trend is of equal concern in the southeast region, which is also dependent on smaller-scale farms for much of its milk supply. In Georgia – one of the anchor states of the region’s supply - the number of dairy farms declined from 160 to 110, a decline of 31%; in Mississippi, the number of dairy farms declined from 65 to 50, a loss of 23%; and in Arkansas, the number of dairy farms declined from 50 to 35, a loss of 35%.⁴

While most prevalent in the Northeast, Midwest and Southeast, the loss of smaller farms is also apparent in the western and southwestern states, the centers of large-scale operations, as Appendix B2 of the GAO study identifies. There have also been notable losses of smaller and mid-sized farms in virtually all of the eleven “western” states included.⁵

As the historic centerpiece of national dairy policy, dating back to the New Deal, the FMMO Program should be expected to constrain this loss of dairy farm operations. The USDA AMS web site identifies the Program’s function, as follows:

Federal Milk Marketing Orders (FMMOs) establish certain provisions under which dairy processors purchase fresh milk from dairy farmers supplying a marketing area...Federal orders serve to maintain stable marketing relationships for all handlers and producers supplying marketing areas, thus facilitating the complex process of marketing fresh milk.⁶

The accelerating loss of so many small farming operations, particularly in the regions dependent on them for their milk supplies, would appear to be at odds with “stable marketing relationships for all handlers and producers supplying marketing areas”.

Nonetheless, the USDA Dairy Program has held but one national hearing since 2000 to consider administrative change or update to FMMO Program operation. The USDA Dairy Program has repeatedly indicated that there is more than sufficient milk supply to service fluid milk plants, despite the substantial loss of farming operations, and for this reason the Program is to be understood as operating consistent with its statutory dictate.

It is also important to account for the regulatory and other dairy support programs that have been implemented by many states to retain smaller-scale farms in operation. These programs often accentuate the importance of local dairy farms for rural economies, culture, and working landscapes, as well as their capability to provide local supplies of milk. As one example, Maine operates both an “over-order” producer price regulation to maintain orderly milk market and stability of the in-state milk supply, and an additional “tier” producer payment program, paid out of the general fund devised to promote the greater interests involved with maintaining dairy farm operation and sustainability.

A recent study found that the producer payment program has had a measurable, positive impact on retaining Maine dairy farms:

⁴ GAO Study Appendix B2, page 49.

⁵ Ibid.

⁶ Ibid.

The Maine dairy relief program creates effective price floors that increase the profitability of Maine dairy farms, stabilize profits and reduce producer uncertainty. We find that the tier program substantially contributes to the financial sustainability of the Maine dairy industry by reducing the number of farms that exit, keeping farms in business longer and increasing farm profits. Had the tier-pricing program not been adopted in 2004, there would likely be far fewer dairy farms operating in Maine today.⁷

Given these considerations, we request that the GAO address the following questions:

1. Can the FMMO Program be administered under its current statutory authorization to maintain operation of smaller-scale farms, or must the enabling legislation be amended in order to achieve this objective?
2. If needed, how should the FMMO Program's enabling language be revised to best assure the sustainability of small and mid-size dairy farm operations while still accounting for the importance of larger scale farms?
3. Should the enabling language replace the uniform national Class II-IV pricing series with differing pricing formulas and pooling provisions that reflect the distinct marketing conditions among the nation's regional dairy markets?
4. Is a tiered producer payment structure reflecting the different costs of production for different-sized operations a viable method of achieving the policy objective?
5. Is incorporation of cooperative base excess plans into the FMMO Program, or some other form of governmental regulation of milk production, together with pooling and price regulation, necessary to achieve the policy objective?
6. Would such revision to the FMMO program also reduce the costs for states that have implemented programs to maintain operation of small and mid-size dairy farms?

In conducting the review, we request that GAO's analysis be premised on an individual and comprehensive review of the operation of each of the nation's markedly distinct, regional Milk Marketing Orders. Similarly, the review should assess the FMMO Program's differing operation in each of the individually regulated Milk Marketing Orders. The review should thereby assess the respective roles assumed by larger- and smaller-scaled operations in each Order for providing raw milk supplies for fluid milk processing and for dairy products manufacture. In sum, when considering the FMMO program's impact on farm viability, the review must account for supply and demand patterns and producer costs of production, which are distinct for each region.

The review should also identify all state regulatory and support programs that are in operation, and consider the interaction and impact of the FMMO Program on these programs. This will require the GAO to account for the other policy objectives involved with the maintenance of smaller-scale operations, including their importance for rural economies and working

⁷ X. Chen, D. Bouchard, D Anderson, *Is the Dairy Relief Program Really Working? Evaluating Maine's Tier Payment Program Using a Simulation Approach*, MDPI, 2018 at 15.

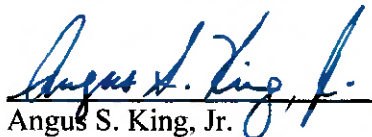
landscapes. Finally, the review should account the presence of marketing areas that are not regulated by either the FMMO program or state regulation.


If you have any questions about this request, please contact [REDACTED] (Senator Gillibrand) at [REDACTED] and [REDACTED] (Senator Collins) at [REDACTED]. Thank you for your attention to this matter.

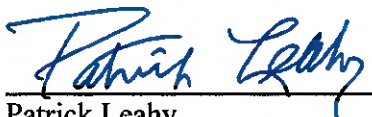
Sincerely,


Kirsten Gillibrand
United States Senator


Susan M. Collins
United States Senator


Angus S. King, Jr.
United States Senator


Jeanne Shaheen
United States Senator


Patrick Leahy
United States Senator


Roger W. Marshall
Member of Congress