



United States
Department of
Agriculture

Agricultural
Marketing
Service

1400 Independence Avenue, SW STOP 0231
Washington, DC
20250-0231

July 12, 2004

Invitation to Submit Proposals for a Public Hearing to Amend the Pooling Provisions of the Central Marketing Order

We have received a request to amend provisions of the Central Federal milk marketing order from Dairy Farmers of America, Inc., and Prairie Farms Cooperative, dairy cooperatives marketing milk of members. The proposals would amend the pooling and performance requirements of the order.

Proponents state that amendments to the Central order pooling standards are necessary to insure that producers who regularly supply the market and share in the blend price are not disadvantaged by those producers who "opt in" the pool only when profitable and "opt out" when it is not. Specifically, the cooperatives state that if a producer desires to share in the returns of the order these proposals cause that decision to have multi-month consequences. Proponents also contend that the increase in the shipping standards should attract more milk to the market in the fall months. Requiring a producer to "touch base" at a pool plant at least 1 day during August to November and January to February, in order to maintain association with the pool, could increase actual performance. The proposals also include language that defines where milk can be diverted from to maintain pool status.

Copies of the proposals may be obtained from either Jack Rower, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231–Room 2971, 1400 Independence Avenue, SW, Washington, DC 20250-0231, (202) 720-2357, e-mail: Jack.Rower@usda.gov or Donald R. Nicholson, Ph.D., Central Market Administrator, USDA/AMS/Dairy, P.O. Box 14650, Shawnee Mission, Kansas 66285-4650, (913) 495-9300.

These proposals have not yet been approved for inclusion in a Notice of Hearing. Before deciding whether a hearing should be held, USDA is providing interested parties an opportunity to submit additional proposals regarding the pooling standards in the Central order.

Additional proposals should be mailed to: Deputy Administrator, USDA/AMS/Dairy Programs, STOP 0225–Room 2968, 1400 Independence Avenue, SW, Washington, DC 20250-0225, by August 13, 2004. Each proposal should be accompanied by a brief but comprehensive statement on the need for the proposal. The statement will be used in deciding whether the proposals should be considered if a hearing to amend the order is to be held.

Interested Parties

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A hearing would be limited to proposals included in a hearing notice. However, appropriate modifications of the proposals in the hearing notice may be considered at the hearing. Any proposals that would extend regulation should be accompanied by the names and addresses of persons who proponents believe would be affected by the proposed extension and an estimate of the number of additional dairy farmers involved.

Actions under the Federal Milk Order Program are subject to the "Regulatory Flexibility Act (Act)." This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal Order Program, a dairy farm is a "small business" if it has an annual gross revenue of less than \$750,000 resulting in a production guideline of 500,000 pounds per month. A handler is a "small business" if they have fewer than 500 employees. If the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. Interested persons are invited to submit hearing proposals that would carry out the intent of the Act.

If USDA concludes that a hearing should be held, all known interested persons will be mailed a copy of the hearing notice. Anyone who desires to present evidence on proposals set forth in the hearing notice will have an opportunity to do so at the hearing.

Once a hearing notice is issued and until the issuance of a final decision, USDA employees involved in the decisional process may not discuss the merits of a proceeding on an ex parte basis with any persons having an interest in the proceeding. For this purpose, the Market Administrator and his staff are considered to be involved in the decisional process. Thus, it is suggested that any discussions that you may wish to have with USDA personnel regarding hearing proposals be initiated soon. Procedural matters may be discussed at any time.

If you have any questions concerning the filing of the proposals or desire a copy of the present order, please contact this office.

Sincerely,

/s/

Clifford M. Carman
Acting Deputy Administrator
Dairy Programs