

**United States Department of Agriculture
Agricultural Marketing Service, Dairy Programs**

Market Administrator

**Federal Order No. 6 – Florida Marketing Area
Federal Order No. 7 – Southeast Marketing Area**

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November 8, 2005

TO: Interested Parties - Southeast Marketing Area

FROM: Market Administrator, Atlanta, Georgia

SUBJECT: Proposals to Amend the Transportation Credit Balancing Fund Provisions of the Appalachian and Southeast Orders.

Dairy Farmers of America (DFA) has requested that the Department of Agriculture (USDA) hold an emergency public hearing to consider proposals to increase the maximum assessment rate of the transportation credit balancing funds of the Appalachian and Southeast milk marketing orders. The request also proposes to establish transportation credit funds for intra-market movements of milk within the marketing areas, and fuel cost adjustments for both the current transportation credit balancing funds and the proposed intra-market transportation credit funds.

Copies of the proposals may be obtained from Antoinette Carter, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231 – Room 2971, 1400 Independence Ave, SW, Washington, DC 20250, (202) 690-3465, e-mail: antoinette.carter@usda.gov.

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

DEADLINE FOR SUBMITTING PROPOSALS: November 25, 2005

PROPOSALS SHOULD BE MAILED TO: Deputy Administrator, USDA/AMS/Dairy Programs, Room 2968-S, STOP 0225, 1400 Independence Avenue, SW, Washington, DC 20250-0225, by November 25, 2005.

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 proposal should be considered if a hearing to amend the order is to be held.

All proposals submitted in response to this request will also be posted online and made available to the public. If you do not wish to have your proposal made available to the public, you should make this clear with your submission. Your request for confidentiality must explain why the proposal, or any sections of the proposal, may be withheld under the exemptions provided for in the Freedom of Information Act (FOIA). If the Department denies your request for confidentiality, you will have an opportunity to withdraw the proposal. If the Department concurs in withholding your proposal, a

statement of the reasons for your request will be made available for public inspection without revealing your identity.

A hearing would be limited to proposals included in a hearing notice. However, appropriate modifications of the proposals included in the notice also may be considered at the hearing if the modifications would not enlarge the marketing area or regulate persons not now subject to the order. 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." 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 it has 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 "Regulatory Flexibility" Act.

If the Department 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, Department 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 their staff are considered to be involved in the decisional process. Thus, it is suggested that any discussions that you may wish to have with Department 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 at 770-682-2501.

Sue L. Mosley
Market Administrator