



United States
Department of
Agriculture

Agricultural
Marketing
Service

1400 Independence Ave., SW
Washington, DC
20250

July 15, 2011

Invitation to Submit Proposals for Consideration at a Public Hearing that May Be Held to Discuss Amending the Pooling Standards within the Definition of a Pool Distributing Plant in the Mideast Milk Marketing Order

Foremost Farms USA Cooperative, Inc., National Farmers Organization, Inc., and Dairy Farmers of America, Inc. have requested that the Department of Agriculture (USDA) hold a public hearing to consider a proposal to amend the definition of the pool distributing plant provision in the Mideast Milk Marketing Order. The proposal would amend the pooling standards as part of the definition of a pool distributing plant.

The proposal may be obtained from the Dairy Programs website at: www.ams.usda.gov/dairy.

The proposal has not yet been approved for inclusion in a Notice of Hearing. Before deciding whether a hearing will be held, USDA is providing the opportunity for interested parties to submit additional proposals regarding the amending of the pooling standards for a pool distributing plant in the Mideast Milk Marketing Order.

The preferred method of submission is via email. Electronic submissions should be emailed to amsdairycomments@usda.gov. Proposals can be faxed to (202) 690-0552. Proposals can also be mailed to: Deputy Administrator, USDA/AMS/Dairy Programs, STOP-0231-Room 2971, 1400 Independence Ave., SW, Washington, DC 20250-0225. **Proposals must be received by August 12, 2011.** Each proposal should be accompanied by a comprehensive statement on the need for the proposal. The statement will be evaluated to determine whether the proposal will be accepted if a hearing is held. In accordance with 7 CFR 900.22 and adoption of the final rule published in the **Federal Register** on August 20, 2008 (73 FR 49085), proposal submissions must include detailed explanations of the following:

1. Explain the proposal. What is the disorderly marketing condition that the proposal is intended to address?
2. What is the purpose of the proposal?
3. Describe the current Federal order requirements or industry practices relative to the proposal.
4. Describe the expected impact on the industry, including on producers and handlers, and on consumers. Explain/Quantify.
5. What are the expected effects on small businesses as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612)? Explain/Quantify.
6. How would the proposal increase or decrease costs to producers, handlers, others in the marketing chain, consumers, the Market Administrator offices and/or the Secretary? Explain/Quantify?
7. Would a pre-hearing information session be helpful to explain the proposal?

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act which seeks to ensure that the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purposes of the Federal order program, a dairy farm is considered a small business if it has an annual gross revenue of less than \$750,000, and a dairy products manufacturer is a small business if it has fewer than 500 employees. For purposes of determining a handler's size, 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 encouraged to submit proposals that carry out the intent of the Regulatory Flexibility Act.

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

Once a Notice of Hearing 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. Accordingly, it is suggested that any discussions you may wish to have with USDA personnel, including Market Administrator employees, be initiated as soon as possible. Procedural matters may be discussed at any time throughout the proceeding.

Sincerely,

/s/ Dana H. Coale

Dana H. Coale
Deputy Administrator
Dairy Programs