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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Dairy Programs
FEDERAL MILK ORDERS 124, 131 & 135

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June 30, 2003

TO: Interested Parties - Pacific Northwest Marketing Area

FROM: James R. Daugherty, Market Administrator
Pacific Northwest, Arizona-Las Vegas, and Western Orders
Seattle, Washington

SUBJECT: Proposals to Amend the Producer-Handler Provisions of the Pacific Northwest Marketing Order

In response to an invitation to submit proposals issued for the Arizona - Las Vegas order, Darigold Farms d/b/a/ Northwest Dairy Association (NDA) has requested that the Department of Agriculture (USDA) hold an emergency public hearing to consider a proposal to amend the Pacific Northwest milk order.

The proponents propose to amend the producer-handler provisions of the order to regulate any producer-handler whose route disposition within the Pacific Northwest marketing area exceeds three million pounds per month. In addition, the proposal seeks to amend other provisions related to producer-handlers.

Copies of the entire NDA proposal may be obtained from the Market Administrator at USDA/AMS/Dairy, 1930-220th Street, SE, Suite 120, Bothell, Washington 98021-8471, (425) 487-6009.

This proposal has not yet been approved for inclusion in a Notice of Hearing. Before deciding whether a hearing should be held, USDA is providing interested parties this opportunity to submit additional proposals regarding the producer-handler provisions of the Pacific Northwest order.

The proposals should be mailed to: Deputy Administrator, USDA/AMS/Dairy Programs, STOP 0225, Room 2968-S, 1400 Independence Avenue, SW, Washington, DC 20250-0225, by July 15, 2003. 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.

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* (5 U.S.C. 601 et seq.). 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 and a dairy products manufacturer 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 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.

/s/ James R. Daugherty
James R. Daugherty
Market Administrator