October 2, 2003

Invitation to Submit Proposals for a Public Hearing to Merge the Appalachian and Southeast Milk Marketing Areas

Southern Marketing Agency, Inc. (SMA), has requested that the Department of Agriculture (USDA) hold a public hearing to consider a proposal to merge the Appalachian and Southeast Federal milk marketing areas. SMA states the proposed merger of the two orders would resolve disorderly marketing conditions that result from blend price differences between the two orders and inefficient movements of milk.

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

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 an opportunity to submit additional proposals regarding the proposed merger of the Appalachian and Southeast Federal milk marketing areas.

Proposals should be mailed to: Deputy Administrator, USDA/AMS/Dairy Programs, STOP-0225-Room 2968, 1400 Independence Avenue, SW, Washington, DC 20250-0225, by November 14, 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 proposals should be considered if a hearing to amend the orders is held.

A hearing would be limited to proposals included in the 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* which 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 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 Administrators and their staffs 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/

Richard M. McKee
Deputy Administrator
Dairy Programs