

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket Nos.
Milk in the Northeast, Appalachian,) AO-14-A78, *et al.*;
Florida, Southeast, Upper Midwest,)
Central, Mideast, Pacific Northwest,)
Southwest, and Arizona Marketing)
Areas) DA-09-02; AMS-DA-09-0007

Order regarding Hearing Schedule

This Order addresses the schedule for the hearing beginning on Monday, May 4, 2009, at 1:00 p.m. local time, in Cincinnati, Ohio, at The Westin-Cincinnati, 21 East Fifth Street, Cincinnati, Ohio 45202.

The hearing schedule will be Monday through Friday, 8 a.m. to 6 p.m., plus evening hours IF necessitated by time constraints of witnesses or by slow progress. I expect to break one hour for lunch, at a time that will depend on the flow of evidence; I recommend bringing lunch rather than trying to purchase it during the lunch break. Other breaks long enough to leave the hearing room will include at least one morning break and at least one afternoon break, these lasting 15-20 minutes. Saturdays and Sundays will not be utilized for the hearing unless it becomes absolutely necessary.

The hearing is for receiving evidence concerning proposed amendments to all Federal milk marketing orders, particularly producer-handler and exempt plant provisions. [Twenty-nine (29) proposals are published in the Federal Register, *see* "Milk in the Northeast and Other Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders; Proposed Rule," 74 Federal Register 67 (9 April 2009), pp.16296 - 16319]. Although I would be pleased to complete the hearing during the first week, that may not be possible. I will end the hearing immediately upon completion, when participants have had a reasonable opportunity to testify and introduce exhibits. For planning purposes, my lodging in Cincinnati is reserved for three weeks, but I do not expect completion of the hearing to take that long.

It will be helpful if participants will (1) sign in; (2) present business cards or similar written identification at the front of the hearing room to (a) me; (b) the court reporter; and (c) USDA officials (including Office of the General Counsel attorneys and Dairy Programs personnel); and (3) advise the USDA officials of any witness's time constraints. I will be

sensitive to parties and witnesses who need to be accommodated to testify as soon as practicable because they need to return to their businesses as soon as possible.

Parties arriving while the hearing is in progress are requested to approach the front of the hearing room to identify themselves to the USDA officials as being present. This can be done even when the hearing is not at a stopping place. [The USDA officials will need their breaks, too, and I will go off the record momentarily as warranted.] Similarly, parties are requested to approach the front of the hearing room to alert USDA officials of any time constraints they may have as proponents of proposals under consideration. In that way I and the other participants may also be alerted.

The order in which evidence will be received will depend on a number of variables, yielding to dairy farmers and State officials and others under time constraints. In general, I intend to begin with USDA's statistical evidence, then evidence concerning Proposal No. 1, and then evidence concerning Proposal 2. Thereafter, I may not proceed in the order of the proposal number and will be open to suggestions, made on the record for all to hear, to help me decide.

The record (including transcript, exhibits, and briefs) will become available for review on the website of the United States Department of Agriculture, Agricultural Marketing Service, Dairy Programs at <http://www.ams.usda.gov/dairy> Further, a copy of all, or any portion, of the transcript may be purchased, by making arrangements with the court reporter at the hearing.

Done at Washington, D.C.
this 23rd day of April 2009

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue SW
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776