



United States
Department of
Agriculture

Agricultural
Marketing
Service

1400 Independence Ave., SW.
Stop 0225, South Building
Washington, DC 20250-0231

June 1, 2023

**Invitation to Submit Proposals for Consideration in a Rulemaking Proceeding
that may be Initiated to Amend all Federal Milk Marketing Orders**

The National Milk Producers Federation (NMPF) has requested the Department of Agriculture (USDA) begin a rulemaking proceeding to consider proposals to amend the pricing provisions in all Federal Milk Marketing Orders (FMMOs). The proposal requests USDA consider amending five provisions related to increasing manufacturing allowances, returning to the “higher of” as the mover for Class I milk prices, updating the milk composition factors, removing barrel cheese from the Class III price formula, and updating the Class I price surface. NMPF contends the dairy marketplace has changed substantially since the current FMMO pricing system was adopted in 2000 and pricing provisions should be updated to reflect current market conditions.

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 potential amendments to the current pricing provisions applicable to all FMMOs. On May 30, 2023, the International Dairy Foods Association (IDFA) and the Wisconsin Cheese Makers Association (WCMA) provided additional information seeking to increase manufacturing allowances, as requested by USDA. Those proposals are now considered additional proposals in conjunction with this request. All proposals may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/dairy/petitions>.

The preferred method of submission for additional proposals is via email at FMMOhearing@usda.gov. Proposals can also be mailed to: Deputy Administrator, USDA/AMS/Dairy Programs, STOP-0225-Room 2530, 1400 Independence Ave., SW, Washington, DC 20250-0225. **Proposals must be received by Wednesday, June 14, 2023, at 5:00 p.m. (ET).** Each pricing related proposal should be accompanied by a comprehensive explanation on the need for and potential impacts of the proposed change(s), how the proposed change(s) facilitates more orderly marketing, and any other relevant information. An evaluation of the submitted information will assist in determining whether the proposal will be accepted if a hearing is held.

USDA will hold a virtual Pre-Hearing Information Session (Session) on Friday, June 16, 2023, beginning at 10:00 a.m. (ET) to allow proposal submitters to explain their proposal(s). Justification for adoption should not be provided during this session. USDA staff will ask questions of the submitters. Each submission may have one representative participate per proposal with the individual’s name and contact information provided to USDA at the above email address by Wednesday, June 14, 2023. Representatives will be contacted on Thursday, June 15, 2023, with participation instructions. Additional information will be posted at <https://www.ams.usda.gov/rules-regulations/moa/dairy>. A link for interested parties to virtually observe the session on Friday, June 16, will be available by 9:00 a.m. (ET) on this website.

Actions under the FMMO program are subject to the Regulatory Flexibility Act, which seeks to ensure that regulatory and informational requirements are tailored to the size and nature of small businesses. For the purposes of the FMMO program, a dairy farm is considered a small business if it has an annual gross revenue of less than \$3.75 million.¹ A dairy products manufacturer is a small business if it has fewer than the number of employees listed in the chart below:

NAICS Code	NAICS U.S. industry title	Size standards in number of employees
311511	Fluid Milk Manufacturing	1,000
311512	Creamery Butter Manufacturing	750
311513	Cheese Manufacturing	1,250
311514	Dry, Condensed, and Evaporated Dairy Product Manufacturing	750

For purposes of determining a handler’s size, if the plant is part of a larger company operating multiple plants that collectively exceed the listed-employee limit, the plant will be considered a large business even if the local plant has fewer than the listed number of employees. Interested persons are encouraged to submit proposals that carry out the intent of the Regulatory Flexibility Act.

If USDA determines a hearing will be held, all known interested parties will be provided a copy of the Notice of Hearing. Anyone who desires to present evidence on proposals included 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, any discussions you wish to have with USDA personnel, including Market Administrator employees, should be initiated as soon as possible. Procedural matters may be discussed at any time throughout the proceeding.

Sincerely,

Dana H. Coale

Dana H. Coale
Deputy Administrator
Dairy Program

¹ 13 CFR 121