



Mr. Jeffrey Sims Assistant Secretary Southern Marketing Agency, Inc. 13011 West Highway 42, Suite 206 Prospect, Kentucky 40059

Dear Mr. Sims:

This letter is in response to your request, dated April 26, 2013, to suspend the transportation credit provisions of the Southeast and Appalachian Federal milk marketing orders for the period of July 2013 to February 2014. At this time, the request is denied.

In your letter, you suggested several ways in which the transportation credit provisions of the Southeast and Appalachian marketing orders could be modified. You described certain aspects of the provisions and how they are not reflective of current marketing conditions and not adequately attracting supplemental milk as designed. Your solution to remedy these problems is to suspend these provisions.

Market Administrator data shows that milk production from farms located inside the Southeast and Appalachian marketing areas remains insufficient to meet demand for fluid use. Through the first 3 months of 2013, combined in area milk production pooled on the Southeast and Appalachian Orders was 1.55 billion pounds, while Class I use in plants regulated under the Southeast and Appalachian marketing orders was 2.08 billion pounds.

The inherent deficit requires an integration of Federal order provisions. Currently, the transportation credit provisions, along with Class I differentials and pooling standards are designed to work together to address the unique milk supply and demand conditions for the two marketing areas.

The Federal order program relies on a formal rulemaking process to thoroughly investigate proposed changes to Federal order provisions and is the most appropriate venue to best address the concerns raised in your letter.

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Additionally, as we explained in a prior letter to you on April 29, 2013, there are two open rulemaking proceedings regarding the Southeast and Appalachian marketing orders regarding the transportation credit fund provisions:

AMS-DA-07-0059, Milk in the Appalachian, Florida and Southeast Marketing Areas; Interim Order Amending the Orders, Interim Final Rule; and,

AMS-DA-09-0001, *Milk in the Appalachian and Southeast Marketing Areas*, Interim Order Amending the Orders, Interim Final Rule.

Since ex-parte rules prohibit the U.S. Department of Agriculture from discussing the merits of any proposed changes to Federal milk order provisions with any party having an interest in the proceeding, we are unable to discuss the merits of your request until the above rulemaking proceedings are completed. We are working to complete the rulemaking process as soon as possible.

After the final rules for the above proceedings are issued, we are free to discuss the merits of modifying the transportation credit balancing fund provisions. Thank you for your continued support of the Federal milk order program. If you have any questions please contact me.

Sincerely,

Dana H. Coale Deputy Administrator Dairy Programs