

United States Department of Agriculture

Agricultural Marketing Service

Dairy Program

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Market Administrator

Federal Order No. 5 – Appalachian Marketing Area
Federal Order No. 6 – Florida Marketing Area
Federal Order No. 7 – Southeast Marketing Area

February 3, 2021

TO: Regulated Handlers

FROM: Harold H. Friedly, Jr. - Market Administrator

SUBJECT: Stipulation and Agreed Order – Dean Foods April 2020 Federal Milk Marketing Order Payments

Dean Foods, DIP (debtor-in-possession), a regulated handler on the Appalachian Order, did not pay its obligation to the Producer Settlement Fund (PSF) and other payments as required by Federal milk marketing order regulations for milk pooled during the month of April 2020. Accordingly, payments to handlers from the PSF were reduced pro rata at that time.

On January 15, 2021, the Honorable Chief Judge David R. Jones, of the United States Bankruptcy Court for the Southern District of Texas, signed and entered a Stipulation and Agreed Order (Order) between Dean Foods and the U.S. Department of Justice (DOJ), which is serving as legal counsel of record for the United States Department of Agriculture (USDA).

The Order requires Dean Foods to pay 90 percent of its obligations to DOJ for milk marketed in April 2020 and May 2020, within 30 days. Upon receipt of payment, DOJ will remit settlement monies to USDA and we will work as quickly as possible to send monies owed to FMMO-regulated handlers that did not receive their full PSF payment for April 2020. Once handlers receive payments from USDA, FMMO regulations require that the money be promptly remitted to producers. The enforced minimum payment to producers will be determined by the Market Administrator upon receipt of the Stipulation Order payment.

Please note that the Stipulation Order (and subsequent payout therefrom) does not include any amounts related to missed partial and final payments owed by Dean Foods directly to any producers and to cooperative associations under 7 CFR, Section 1005.73 [Payments to producers and to cooperative associations.] DOJ has communicated USDA's concern to Dean Foods legal counsel about these outstanding post-petition payments still due directly to producers and cooperative associations.

Dean Foods' \$16 million pre-petition debt owed to USDA also is not covered by this Stipulation Order. USDA filed timely Proofs of Claim for these pre-petition obligations and will continue to pursue payment of those claims through the bankruptcy proceeding.

Please contact Jason Nierman if you have any questions at nierman@malouisville.com.