

Proposed Rules

Federal Register

Vol. 61, No. 240

Thursday, December 12, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1079

[DA-96-16]

Milk in the Iowa Marketing Area; Proposed Temporary Revision of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This document invites written comments on a proposal to decrease the percentage of a supply plant's receipts that must be delivered to fluid milk plants to qualify a supply plant for pooling under the Iowa Federal milk order. The applicable percentage would be decreased by 10 percentage points from 30 percent of plant receipts to 20 percent of such receipts for the months of December 1996 through March 1997. The action was requested by Beatrice Cheese, Inc., which contends that the action is necessary to prevent the uneconomic shipment of milk from its Fredericksburg, Iowa, supply plant.

DATES: Comments must be submitted on or before December 19, 1996.

ADDRESSES: Comments (two copies) should be sent to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456. Advance copies of such comments may be faxed to (202) 690-0552.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 690-1932.

SUPPLEMENTARY INFORMATION: The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended

to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended, the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, 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.

The supply plant shipping percentages proposed to be revised are incorporated into the order to prevent the uneconomic shipment of milk. This proposed action will decrease the percentage of milk receipts that handlers are required to move to fluid milk distributing plants. With a decrease in the shipping percentage, supply plant operators will not have to move milk uneconomically to pool distributing plants to keep the milk received at their plants priced under the order.

The proposed reduction of the required supply plant shipping percentage for the months of December 1996 through March 1997 would allow the milk of producers traditionally associated with the Iowa market to continue to be pooled and priced under the order. The proposed revision would lessen the likelihood that more milk shipments to pool plants might be required under the order than are actually needed to supply the fluid milk needs of the market and would result in savings in hauling costs for handlers and producers.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Notice of Proposed Revision and Opportunity to File Comments

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act and the provisions of § 1079.7(b)(1) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of December 1996 through March 1997.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456 by the 7th day after the publication of this notice in the Federal Register. The period for filing comments is limited to 7 days because a longer period would not provide the time

needed to complete the required procedures and include December 1996 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

Section 1079.7(b)(1) of the Iowa order allows the Director of the Dairy Division to reduce or increase a pool supply plant's minimum shipping requirement by up to 10 percentage points to prevent uneconomic shipments of milk or to assure an adequate supply of milk for fluid use. Beatrice Cheese, Inc., which operates a pool supply plant regulated under the Iowa order, requested that the percentages be decreased by 10 percentage points for the months of November 1996 through March 1997. The proponent's request states that the Department's October 23, 1996, shipping percentage revision increasing the shipping percentages from 30 percent of plant receipts to 35 percent for the months of September through November beginning with October 1996, and from 20 percent to 30 percent for the months of December 1996 through March 1997, has caused unjust financial losses, and has encouraged uneconomic shipments of milk by Beatrice in attempts to meet Federal order requirements. Beatrice contends that it was not able to pool 10,500,000 lbs. of producer milk to comply with order requirements to the detriment of Iowa's dairy farmers.

Additionally, Beatrice states that market conditions have changed drastically since the October 23, 1996, decision. Furthermore, according to Beatrice, the recent drop in the cheese and butter markets has resulted in more than an adequate supply of milk for fluid use, which should continue through the spring of 1997, thereby eliminating the need for increased shipping percentages.

As proposed by Beatrice, the percentage of a supply plant's receipts that must be shipped to pool distributing plants if the supply plant is to be considered a pool plant would be decreased by 10 percentage points, from 35 percent to 25 percent, for the month of November 1996, and from 30 percent to 20 percent for the months of December 1996 through March 1997. Although Beatrice's request seeks to revise the supply plant shipping percentage for November 1996, it is impractical and infeasible to include such month in this proposed action based on the amount of time necessary for the required procedures, including a

comment period. Therefore, comments should be directed towards the proposal involving the December 1996 through March 1997 period.

In view of the current supply and demand relationship, it may be necessary to decrease the shipping percentage requirements for pool supply plants under Order 79 as proposed to provide for the efficient and economic marketing of milk during the months of December 1996 through March 1997.

List of Subjects in 7 CFR Part 1079

Milk marketing orders.

The authority citation for 7 CFR part 1079 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Dated: December 6, 1996.

Richard M. McKee,

Director, Dairy Division.

[FR Doc. 96-31563 Filed 12-11-96; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-SW-29-AD]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B-1, and 214ST Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 214B, 214B-1, and 214ST helicopters, that currently establishes a retirement life of 60,000 high-power events for the main rotor trunnion (trunnion). This proposal would require changing the method of calculating retirement life for the trunnion from high power events to a maximum accumulated Retirement Index Number (RIN). This proposal is prompted by fatigue analyses and tests that show certain trunnions fail sooner than originally anticipated because of the unanticipated higher number of lifts or takeoffs (torque events) performed with those trunnions in addition to the time-in-service (TIS) accrued under other operating conditions. The actions specified by the proposed AD are intended to prevent fatigue failure of the trunnion, which could result in loss of the main rotor and subsequent loss of control of the helicopter.

DATES: Comments must be received by February 10, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94-SW-29-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron, Inc., Attention: Product Support Department, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Harrison, Aerospace Engineer, FAA, Rotorcraft Certification Office, Rotorcraft Directorate, Fort Worth, Texas 76193-0170, telephone (817) 222-5447, fax (817) 222-5959.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94-SW-29-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No.