Proposed Rules

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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 1126

[DA–99–08]

Milk in the Texas Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; suspension.

SUMMARY: This document invites written comments on a proposal that would reinstate suspension of portions of the pool plant and producer milk definitions of the Texas Federal milk order until the implementation of Federal order reform. Dairy Farmers of America, Inc. (DFA), a cooperative association that represents producers who supply milk to the market, has requested the reinstatement of the suspension that expired July 31, 1999. The cooperative asserts that the suspension is necessary to ensure that dairy farmers who have historically supplied the Texas market will continue to have their milk priced under the Texas order without incurring costly and inefficient movements of milk.

DATES: Comments are due no later than September 28, 1999.

ADDRESSES: Comments (two copies) should be sent to USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9368.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, PO Box 96456, Washington, DC 20090–6456, (202) 720–9368, e-mail address: clifford.carman@usda.gov.

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 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.*), 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.

For the month of May 1999, the milk of 1,314 producers was pooled on the Texas Federal milk order. Of these producers, 812 producers were below the 326,000-pound production guideline and are considered small businesses. During May, there were 12 handlers operating 21 pool plants under the Texas order. Four of these handlers would be considered small businesses.

This proposal would suspend portions of the pool plant and producer milk definitions under the Texas order. The proposed action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that dairy farmers would have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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.

Preliminary Statement

Notice is hereby given that, pursuant to the provisions of the Act, the suspension of the following provisions of the order regulating the handling of milk in the Texas marketing area is being considered for a period that would terminate upon implementation of Federal milk order reform—the final rule issued September 1, 1999 (64 FR 47898) and with an effective date of October 1, 1999:

1. In § 1126.7(d) introductory text, the words ''during the months of February through July'' and the words ''under paragraph (b) or (c) of this section''.

2. In § 1126.7(e) introductory text, the words ''and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status

under this paragraph has been requested''.

3. In § 1126.13(e)(1), the words ''and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant''.

4. In § 1126.13, paragraph (e)(2).

5. In § 1126.13(e)(3), the sentence ''The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;''.

All persons who desire to submit written data, views or arguments about the proposed suspension should send two copies to USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after 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 for timely implementation of the suspension.

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

Statement of Consideration

This proposed action would reinstate the suspension of portions of the pool plant and producer milk definitions under the Texas order that expired July 31, 1999. The proposed suspension would be in effect from the day after publication of the suspension in the **Federal Register** until the implementation of Federal order reform (October 1, 1999). The proposed action would suspend: (1) The 60 percent delivery standard for pool plants operated by cooperatives; (2) the diversion limitation applicable to cooperative associations; (3) the limits on the amount of milk that a pool plant operator may divert to nonpool plants; (4) the shipping standards that must be met by supply plants to be pooled under the order; and (5) the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order provides for regulating, as a supply plant, a plant that each month ships a sufficient percentage of its receipts to distributing plants. The order sets the requirement as 15 percent of the plant's milk receipts during August and December and 50 percent of the plant's receipts during September through November and January. In addition, the order provides that a plant that is pooled, as a supply plant, during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. The requested action would suspend these performance standards, but only for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also permits a cooperative association plant located in the marketing area to be a pool plant if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool distributing plants during the month. In addition, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received during the month at handlers' pool plants, and the operator of a pool plant may divert to nonpool plants not more than one-third of the milk that is physically received during the month at the handler's pool plant. The proposed action would suspend the 60 percent delivery standard for plants operated by a cooperative association and remove the diversion limitations applicable to a cooperative association and to the operator of a pool plant.

The order also specifies that some milk of each producer must be physically received at a pool plant in order for any of the producer's milk to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for the remainder to be eligible for diversion. The proposed action would suspend these requirements.

The reinstatement of the suspension was requested by DFA, a cooperative association that represents a substantial number of dairy farmers who supply the Texas market. The cooperative stated that marketing conditions have not changed materially since the provisions were initially suspended, prior to 1990, and therefore should be suspended until restructuring of the Federal order program is implemented as mandated in the 1996 Farm Bill.

The cooperative states that the reinstatement of the suspension is necessary to assure that dairy farmers who have historically supplied the Texas market will have their milk priced under the Texas order. In addition, DFA maintains that the suspension would provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions effective upon the day after the date of publication of the suspension in the **Federal Register**, continuing until implementation of Federal order reform.

List of Subjects in 7 CFR Part 1126

Milk marketing orders.

The authority citation for 7 CFR Part 1126 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: September 15, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–24568 Filed 9–20–99; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 340

RIN 3064–AB37

Restrictions on the Purchase of Assets From the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing to issue a rule implementing the requirements of the Resolution Trust Corporation Completion Act of 1993 that assets held by the FDIC in the course of liquidating any federally insured institution not be sold to persons who, in ways specified in the Act, contributed to the demise of an insured institution. The proposed rule establishes a self-certification process that is a prerequisite to the purchase of assets from the FDIC and provides definitions that effectuate the intent of Congress regarding the scope of the statutory prohibitions.

DATES: Written comments must be received on or before December 20, 1999.

ADDRESSES: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th St., N.W., Washington, D.C. 20429.