

# Proposed Rules

Federal Register

Vol. 65, No. 240

Wednesday, December 13, 2000

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 Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131, and 1135

[Docket No. AO-14-A69, et al.; DA-00-03]

#### Milk in the Northeast and Other Marketing Areas; Referendum Order; Determination of Representative Period and Designation of Referendum Agent

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Referendum Order.

**SUMMARY:** This document announces a referendum to be conducted to determine whether producers favor

issuance of the order regulating the handling of milk in the Upper Midwest marketing area, as proposed to be amended in the tentative final decision issued by the Deputy Under Secretary on November 29, 2000 (65 FR 76831), regarding the pricing formulas for milk used in Class III and Class IV.

**DATES:** The referendum is to be completed on or before December 29, 2000.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2968 South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-2357, e-mail address [connie.brenner@usda.gov](mailto:connie.brenner@usda.gov).

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding; *Notice of Hearing:* Issued April 6, 2000; published April 14, 2000 (65 FR 20094).

*Tentative Final Decision:* Issued November 29, 2000; published December 7, 2000 (65 FR 76831).

On November 29, 2000, the Deputy Under Secretary, Marketing and Regulatory Programs, issued a tentative

final decision on proposed amendments to the Class III and Class IV pricing formulas for Federal milk orders, as required by the Consolidated Appropriations Act, 2000 (P.L. 106-113, 115 Stat. 1501).

Each of the eleven Federal milk orders must be approved by the producers whose milk would be pooled under the order. The tentative final decision included a referendum order for two Federal milk orders, the Northeast and Mideast, for which approval by the necessary two-thirds of producers, or by producers who produced at least two-thirds of the total milk produced under the order, could not be determined by means other than referenda of all producers and cooperative associations that bloc vote. After issuance of the tentative final decision, it was determined that approval of the Upper Midwest order also would require a referendum of all producers and bloc-voting cooperative associations. Accordingly, the following referendum order is issued to determine approval of the Upper Midwest order as amended by the provisions contained in the tentative final decision.

7 CFR Part	Marketing Area	AO Nos.
1001	Northeast	AO-14-A69.
1005	Appalachian	AO-388-A11.
1006	Florida	AO-356-A34.
1007	Southeast	AO-366-A40.
1030	Upper Midwest	AO-361-A34.
1032	Central	AO-313-A43.
1033	Mideast	AO-166-A67.
1124	Pacific Northwest	AO-368-A27.
1126	Southwest	AO-231-A65.
1131	Arizona-Las Vegas	AO-271-A35.
1135	Western	AO-380-A17.

#### Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted to determine whether the issuance of the order regulating the handling of milk in the Upper Midwest marketing area, as amended by the tentative final decision issued on November 29, 2000 (65 FR 76831), is approved by at least two-thirds of the

producers, or by producers who produced at least two-thirds of the total milk produced during the representative period.

The month of September 2000 is hereby determined to be the representative period for the conduct of such referendum.

H. Paul Kyburz is hereby designated agent of the Secretary to conduct such referendum in accordance with the

procedure for the conduct of referenda (7 CFR 900.300 *et seq.*)

Such referendum shall be completed on or before 30 days from the issuance of the tentative final decision.

#### List of Subjects in 7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131, and 1135

Milk marketing orders.

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

Dated: December 8, 2000.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 00-31762 Filed 12-11-00; 10:11 am]

BILLING CODE 3410-02-P

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 32

RIN 3038-AB61

#### Trade Options on Enumerated Agricultural Commodities

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend the exemption from its agricultural trade option rule, to clarify its operation in light of amendments to the exemption for bilateral transactions, published elsewhere in this issue of the **Federal Register**.

**DATES:** Comments must be received by December 28, 2000.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418-5521 or by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Amendment to Rule 32.13(g)."

**FOR FURTHER INFORMATION CONTACT:** Paul M. Architzel, Chief Counsel, or Nancy E. Yanofsky, Assistant Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5260. E-mail: [PArchitzel@cftc.gov](mailto:PArchitzel@cftc.gov) or [NYanofsky@cftc.gov](mailto:NYanofsky@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Commission is proposing a technical revision to its agricultural trade option rule to clarify the requirements for an exemption therefrom. As revised, the exemption from the agricultural trade option rule will be based only on the net worth requirement in the current rule. See Rule 32.13(g)(1)(iii).<sup>1</sup> A revised part 35,

<sup>1</sup> The Commission's agricultural trade option rule currently provides a three-prong test for an

published elsewhere in this issue of the **Federal Register**, establishes an exemption from the regulatory requirements of the Commodity Exchange Act (Act) and the Commission's regulations for certain bilateral transactions between eligible participants. In adopting part 35, however, the Commission reserved the applicability of rule 32.13. Today's proposal is designed to make the operation of the exemption from rule 32.13 consistent with the broader exemption of part 35. Transactions between counterparties meeting the net worth requirement although not subject to the requirements of rule 32.13 remain subject to the provisions of part 35.

##### II. Related Matters

###### A. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires that agencies consider the impact of their rules on small businesses. The proposed rule amendment simply clarifies the scope of an existing regulatory exemption available to high net worth entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that this proposed amendment will not have a significant economic impact on a substantial number of small entities.

###### B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3504(h) (PRA), which imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA, does not apply to the proposed amendment to this rule. The Commission believes the proposed amendment does not contain information collection requirements which require the approval of the Office of Management and Budget. The purpose of the proposed amendment is to clarify the scope of an existing regulatory exemption.

exemption therefrom. In addition to the net worth requirement, the rule requires that: (a) the option be offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the option transaction, or the products or byproducts thereof; and (b) such producer, processor, commercial user of or merchant is offered or enters into the option solely for purposes related to its business as such. See Rule 32.13(g)(1)(i) and (ii). The Commission is proposing to remove these latter two requirements and make the exemption from the agricultural trade option rule available to parties based solely on their ability to meet the net worth requirement.

##### List of Subjects in 17 CFR Part 32

Commodity futures, Commodity options, Prohibited transactions, Trade options.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 2(a)(1)(A), 4c and 8a of the Act, 7 U.S.C. 2, 6c and 12a, as amended, the Commission hereby proposes to amend Chapter I, Part 32 of Title 17 of the Code of Federal Regulations as follows:

#### PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

1. The authority section for part 32 continues to read as follows:

**Authority:** 7 U.S.C. 2, 6c and 12a.

2. Section 32.13 is proposed to be amended by revising paragraph (g) to read as follows:

##### § 32.13 Exemption from prohibition of commodity option transactions for trade options on certain agricultural commodities.

\* \* \* \* \*

(g) *Exemption.* The provisions of this section shall not apply to a commodity option entered into between counterparties that have a reasonable basis to believe that each has a net worth of not less than \$10 million or the party's obligations on the option are guaranteed by a person which has a net worth of \$10 million and has a majority ownership interest in, is owned by, or is under common ownership with, the party to the option; *provided, however,* that part 35 of this chapter and § 32.9 apply to such option transactions.

Issued in Washington, D.C., this 7th day of December, 2000, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00-31732 Filed 12-12-00; 8:45 am]

BILLING CODE 6351-01-U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1271

[Docket No. 00N-1380]

#### Human Bone Allograft: Manipulation and Homologous Use in Spine and Other Orthopedic Reconstruction and Repair; Public Meeting; Reopening of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public meeting; reopening of comment period.