

(12) Houston-Baytown-Huntsville, TX—consisting of the Houston-Baytown-Huntsville, TX CSA;

(13) Huntsville-Decatur, AL—consisting of the Huntsville-Decatur, AL CSA;

(14) Indianapolis-Anderson-Columbus, IN—consisting of the Indianapolis-Anderson-Columbus, IN CSA, plus Grant County, IN;

(15) Kansas City-Overland Park-Kansas City, MO-KS—consisting of the Kansas City-Overland Park-Kansas City, MO-KS CSA;

(16) Los Angeles-Long Beach-Riverside, CA—consisting of the Los Angeles-Long Beach-Riverside, CA CSA, plus the Santa Barbara-Santa Maria-Goleta, CA MSA and all of Edwards Air Force Base, CA;

(17) Miami-Fort Lauderdale-Miami Beach, FL—consisting of the Miami-Fort Lauderdale-Miami Beach, FL MSA, plus Monroe County, FL;

(18) Milwaukee-Racine-Waukesha, WI—consisting of the Milwaukee-Racine-Waukesha, WI CSA;

(19) Minneapolis-St. Paul-St. Cloud, MN-WI—consisting of the Minneapolis-St. Paul-St. Cloud, MN-WI CSA;

(20) New York-Newark-Bridgeport, NY-NJ-CT-PA—consisting of the New York-Newark-Bridgeport, NY-NJ-CT-PA CSA, plus Monroe County, PA, and Warren County, NJ;

(21) Orlando-The Villages, FL—consisting of the Orlando-The Villages, FL CSA;

(22) Philadelphia-Camden-Vineland, PA-NJ-DE-MD—consisting of the Philadelphia-Camden-Vineland, PA-NJ-DE-MD CSA, plus Kent County, DE, Atlantic County, NJ, and Cape May County, NJ;

(23) Pittsburgh-New Castle, PA—consisting of the Pittsburgh-New Castle, PA CSA;

(24) Portland-Vancouver-Beaverton, OR-WA—consisting of the Portland-Vancouver-Beaverton, OR-WA MSA, plus Marion County, OR, and Polk County, OR;

(25) Richmond, VA—consisting of the Richmond, VA MSA;

(26) Sacramento—Arden-Arcade—Truckee, CA-NV—consisting of the Sacramento—Arden-Arcade—Truckee, CA-NV CSA, plus Carson City, NV;

(27) St. Louis-St. Charles-Farmington, MO-IL—consisting of the St. Louis-St. Charles-Farmington, MO-IL CSA;

(28) San Diego-Carlsbad-San Marcos, CA—consisting of the San Diego-Carlsbad-San Marcos, CA MSA;

(29) San Jose-San Francisco-Oakland, CA—consisting of the San Jose-San Francisco-Oakland, CA CSA, plus the Salinas, CA MSA and San Joaquin County, CA;

(30) Seattle-Tacoma-Olympia, WA—consisting of the Seattle-Tacoma-Olympia, WA CSA;

(31) Washington-Baltimore-Northern Virginia, DC-MD-VA-WV—consisting of the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV CSA, plus the Hagerstown-Martinsburg, MD-WV MSA, Culpeper County, VA, and King George County, VA; and

(32) Rest of U.S.—consisting of those portions of the continental United States not located within another locality pay area.

4. In § 531.606, paragraph (g) is revised to read as follows:

**§ 531.606 Administration of locality rates of pay.**

\* \* \* \* \*

(g) In the event of a change in the geographic coverage of a locality pay area as a result of the addition by OMB of a new area(s) to the definition of an MSA or CSA or as the result of any change made by the President's Pay Agent in the definition of a locality pay area, the effective date of any change in an employee's entitlement to a locality rate of pay under this subpart is the first day of the first pay period beginning on or after January 1 of the next calendar year. Any area removed by OMB from coverage within an MSA or CSA that serves as the basis for defining a locality pay area must be reviewed by the Federal Salary Council and the President's Pay Agent before a decision is made regarding the locality pay status of that area.

\* \* \* \* \*

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**BILLING CODE 6325-39-P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 1032**

**[Docket No. AO-313-A48; DA-04-06]**

**Milk in the Central Marketing Area; Notice of Hearing on Proposed Amendments To Tentative Marketing Agreement and Order**

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

**ACTION:** Proposed rule; Notice of public hearing on proposed rulemaking.

**SUMMARY:** A public hearing is being held to consider proposals that would amend certain pooling and related provisions of the Central Federal milk marketing order (Order 32). Proposals under consideration would: modify performance standards for supply

plants, adjust diversion limits, modify the "touch base" provision, limit the pooling of milk that was not pooled in prior months and establish transportation and assembly credits for the order. Additional proposals under consideration would: Eliminate all supply plant provisions, establish a "dairy farmer for other markets" provision, eliminate or modify "split plant" provisions, eliminate or modify system pooling for supply plants and modify the payment date from the producer settlement fund to handlers.

**DATES:** The hearing will convene at 1 p.m. on Monday, October 18, 2004.

**ADDRESSES:** The hearing will be held at the Hilton Kansas City Airport, 8801 NW. 112th Street, Kansas City, Missouri 64153; (816) 891-8900.

**FOR FURTHER INFORMATION CONTACT:** Jack Rower, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs, Stop 0231—Room 2971, 1400 Independence Avenue, SW., Washington, DC 20250-0231, (202) 720-2357, e-mail address: [Jack.Rower@usda.gov](mailto:Jack.Rower@usda.gov).

Persons requiring a sign language interpreter or other special accommodations should contact Bob Vanderlinden at (913) 495-9313 or Dave Stukenberg at (913) 495-9326; e-mail [market.administrator@fmcentral.com](mailto:market.administrator@fmcentral.com) before the hearing begins.

**SUPPLEMENTARY INFORMATION:** This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the Hilton Kansas City Airport, 8801 NW. 112th Street, Kansas City, Missouri 64153; (816) 891-8900, beginning at 1 p.m., on Monday, October 18, 2004, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central milk marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions that relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken at the hearing to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to any proposed amendments.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than \$750,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Department of Agriculture (Department) 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 Department 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 Department'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.

This public hearing is being conducted to collect evidence for the record concerning inequities among

producers caused by provisions that allow reserve milk, which is used in cheese, butter, or nonfat dry milk production, to share in the benefits of pooling, but do not require such milk to pool when there is a cost (when the Class III price or Class IV price is above the blend price). At the hearing, evidence will also be collected to consider changes in pooling standards and other related provisions including shipping standards, diversion limits, "touch base" requirements, establishment of transportation and assembly credits, and modification of the payment date from the producer settlement fund to handlers.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with (4) copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

#### List of Subjects in 7 CFR Part 1032

Milk marketing orders.

The authority citation for 7 CFR Part 1032 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Department.

#### Proposal No. 1

*Proposed by Dairy Farmers of America, Inc., and Prairie Farms Cooperative*

This proposal would increase for all months the amount of milk a supply plant would need to ship to a pool distributing plant in order to be pooled. In addition, this proposal would limit the states from which milk could be diverted in order to maintain pool status, establish a minimum "touch base" requirement of at least one day a month during August through November and January through February in order to maintain association with the pool, and reduce for all months the diversion limits.

1. Amend § 1032.7 by revising paragraph (c) introductory text to read as follows:

#### § 1032.7 Pool plant.

(c) A supply plant from which the quantity of bulk fluid milk products shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 25 percent during the months of August through February and 20 percent in all other months of the Grade A milk received from dairy farmers (except dairy farmers described in § 1032.12(b)) and from handlers described in

§ 1000.9(c), including milk diverted pursuant to § 1032.13, subject to the following conditions:

\* \* \* \* \*

2. Amend § 1032.13 by revising paragraphs (d) introductory text and (d)(1), redesignating paragraphs (d)(2) through (6) as paragraphs (d)(4) through (8), adding new paragraphs (d)(2) and (d)(3), and revising redesignated paragraph (d)(4) to read as follows:

#### § 1032.13 Producer milk.

\* \* \* \* \*

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) located in the States of Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Wisconsin to a nonpool plant subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) The equivalent of at least one day's milk production is caused by the handler to be physically received at a pool plant in each of the months of August through November and January through February;

(3) The equivalent of at least one day's milk production is caused by the handler to be physically received at a pool plant in each of the months of March through July and December if the requirement of paragraph (d)(2) of this section (§ 1032.13) in each of the prior months of August through November and January through February are not met, except in the case of a dairy farmer who marketed no Grade A milk during each of the prior months of August through November or January through February.

(4) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 75 percent during the months of August through February, and not more than 80 percent during the months of March through July, provided that not less than 25 percent of such receipts in the months of August through February and 20 percent of the remaining months'

receipts are delivered to plants described in § 1032.7(a) and (b);

\* \* \* \* \*

### Proposal No. 2

*Proposed by Dairy Farmers of America, Inc., and Prairie Farms Cooperative*

This proposal would limit the pooling of milk normally associated with the market that was not pooled in a prior month to 125 percent of the producer milk receipts pooled by a handler during the prior month.

Amend § 1032.13 by adding new paragraph (f) to read as follows:

#### § 1032.13 Producer milk.

\* \* \* \* \*

(f) The quantity of milk reported by a handler pursuant to § 1032.30(a)(1) and/or § 1032.30(c)(1) for the current month may not exceed 125 percent of the producer milk receipts pooled by the handler during the prior month. Milk diverted to nonpool plants reported in excess of this limit shall be removed from the pool. Milk received at pool plants in excess of the 125 percent limit, other than pool distributing plants, shall be classified pursuant to § 1000.44(a)(3)(v). The handler must designate, by producer pick-up, which milk is to be removed from the pool. If the handler fails to provide this information the provisions of § 1032.13(d)(5) shall apply. The following provisions apply:

(1) Milk shipped to and physically received at pool distributing plants shall not be subject to the 125 percent limitation;

(2) Producer milk qualified pursuant to § \_\_\_\_ .13 of any other Federal order in the previous month shall not be included in the computation of the 125 percent limitation, provided that the producers comprising the milk supply have been continuously pooled on any Federal order for the entirety of the most recent three consecutive months.

(3) The market administrator may waive the 125 percent limitation:

(i) For a new handler on the order, subject to the provisions of § 1032.13(f)(3), or

(ii) For an existing handler with significantly changed milk supply conditions due to unusual circumstances;

(4) A bloc of milk may be considered ineligible for pooling if the market administrator determines that handlers altered the reporting of such milk for the purpose of evading the provisions of this paragraph.

### Proposal No. 3

*Proposed by Foremost Farms USA Cooperative, Associated Milk Producers Inc., First District Association, and Land O'Lakes, Inc. (Foremost, et al.)*

This proposal would add a transportation credit to recover part of the shipping costs and an assembly credit for recovery of a portion of the overhead and procurement costs involved in service to the market. The proposal would establish a "milk reload station" provision to implement the credits.

1. Add § 1032.20 to read as follows:

#### § 1032.20 Milk reload station.

*Milk reload station* means a location that is used as a reload point for transferring bulk milk directly from one tank truck to another.

2. Add § 1032.55 to read as follows:

#### § 1032.55 Transportation credits and assembly credits.

(a) Each handler operating a pool supply plant described in § 1032.7(c) or (f) that transfers bulk milk, or a milk reload station described in § 1032.20 that delivers bulk milk to a pool distributing plant described in 1032.7(a), (b), or (e) shall receive a transportation credit for such milk computed as follows:

(1) Determine the hundredweight of milk eligible for the credit by completing the steps in paragraph (c) of this section;

(2) Multiply the hundredweight of milk eligible for the credit by 0.30 cents (\$0.003) times the number of miles between the transferor plant and the transferee plant (not to exceed 500 miles);

(3) Subtract the effective Class I price at the transferor plant from the effective Class I price at the transferee plant;

(4) Multiply any positive amount resulting from the subtraction in paragraph (a)(3) of this section by the hundredweight of milk eligible for the credit; and

(5) Subtract the amount computed in (a)(4) of this section from the amount computed in paragraph (a)(2) of this section. If the amount computed in paragraph (a)(4) of this section exceeds the amount computed in paragraph (a)(2) of this section, the transportation credit shall be zero.

(b) Each handler operating a pool distributing plant described in § 1032.7(a), (b), or (e) that receives milk from dairy farmers, each handler that transfers or diverts bulk milk from a pool plant to a pool distributing plant, and each handler described in § 1000.9(c) that delivers milk to a pool

distributing plant shall receive an assembly credit on the portion of such milk eligible for the credit pursuant to paragraph (c) of this section. The credit shall be computed by multiplying the hundredweight of milk eligible for the credit by 10 cents.

(c) The following procedure shall be used to determine the amount of milk eligible for transportation and assembly credits pursuant to paragraphs (a) and (b) of this section:

(1) At each pool distributing plant, determine the aggregate quantity of Class I milk, excluding beginning inventory of packaged fluid milk products;

(2) Subtract the quantity of packaged fluid milk products received at the pool distributing plant from other pool plants and from nonpool plants if such receipts are assigned to Class I;

(3) Subtract the quantity of bulk milk shipped from the pool distributing plant to other plants to the extent that such milk is classified as Class I milk;

(4) Subtract the quantity of bulk milk received at the pool distributing plant from other order plants and unregulated supply plants that is assigned to Class I pursuant to §§ 1000.43(d) and 1000.44; and

(5) Assign the remaining quantity pro rata to physical receipts during the month from:

(i) Producers;

(ii) Handlers described in § 1000.9(c); and

(iv) Other pool plants.

(d) For purposes of this section, the distances to be computed shall be determined by the market administrator using the shortest available state and/or Federal highway mileage. Mileage determinations are subject to redetermination at all times. In the event a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of such redetermination within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any periods prior to the redetermination by the market administrator.

3. Amend § 1032.60 by adding a new paragraph (k) to read as follows:

#### § 1032.60 Handler's value of milk.

\* \* \* \* \*

(k) Compute the amount of credits applicable pursuant to § 1032.55.

### Proposal No. 4

*Proposed by Dean Foods Company*

This proposal would eliminate all supply plant provisions.

Amend § 1032.7 by removing paragraphs (c), (d), (f) and (g) and revise § 1032.9 to read as follows:

**§ 1032.9 Handler.**

*Handler* means:

- (a) Any person who operates a pool plant or a nonpool plant.
- (b) Any person who receives packaged fluid milk products from a plant for resale and distribution to retail or wholesale outlets, any person who as a broker negotiates a purchase or sale of fluid milk products or fluid cream products from or to any pool or nonpool plant, and any person who by purchase or direction causes milk of producers to be picked up at the farm and/or moved to a plant. Persons who qualify as handlers only under this paragraph under any Federal milk order are not subject to the payment provisions of §§ \_\_\_\_\_.70, \_\_\_\_\_.71, \_\_\_\_\_.72, \_\_\_\_\_.73, \_\_\_\_\_.76, and \_\_\_\_\_.85 of that order.

(c) Any organization with respect to milk that it receives for its account from the farm of a producer and delivers to pool plants or diverts to nonpool plants pursuant to § \_\_\_\_\_.13 of the order. The operator of a pool plant receiving milk from such organization may be the handler for such milk if both parties notify the market administrator of this agreement prior to the time that the milk is delivered to the pool plant and the plant operator purchases the milk on the basis of farm bulk tank weights and samples.

**Proposal No. 5**

*Proposed by Dean Foods Company*

This proposal would increase supply plant shipping standards by 20 percentage points, from 15 percent to 35 percent, for the month of July; 15 percentage points, from 20 percent to 35 percent, for the months of August through January; 5 percentage points, from 20 percent to 25 percent, for the month of February; and 10 percentage points, from 15 percent to 25 percent, for the months of March through June. This proposal would also require the milk of a dairy farmer to “touch base” for four days during the months of July through November in order for the milk to be diverted and would establish diversion limits of 65 percent for the months of July through January and 75 percent for the months of February through June.

1. Amend § 1032.7 by revising paragraph (c) introductory text to read as follows:

**§ 1032.7 Pool plant.**

\* \* \* \* \*

(c) A supply plant from which the quantity of bulk fluid milk products

shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 35 percent during the months of July through January and 25 percent in all other months of the Grade A milk received from dairy farmers (except dairy farmers described in § 1032.12(b)) and from handlers described in § 1000.9(c), including milk diverted pursuant to § 1032.13, subject to the following conditions:

\* \* \* \* \*

2. Amend § 1032.13 by redesignating paragraphs (d)(3) through (6) as paragraphs (d)(5) through (8), revising paragraphs (d)(1) and (2), and adding paragraphs (d)(3) and (4) to read as follows:

**§ 1032.13 Producer milk.**

\* \* \* \* \*

(d) \* \* \*

(1) Milk of a dairy farmer shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of loss of Grade A approval not to exceed 10 days), the dairy farmer’s milk shall not be eligible for diversion until milk of the dairy farmer has been physically received as producer milk at a pool plant;

(2) The equivalent of at least four days’ milk production is caused by the handler to be physically received at a pool plant in each of the months of July through November;

(3) The equivalent of at least four days’ milk production is caused by the handler to be physically received at a pool plant in each of the months of December through June if the requirement of paragraph (d)(2) of this section (§ 1032.13) in each of the prior months of July through January are not met, except in the case of a dairy farmer who did not market any Grade A milk during each of the prior months of July through January.

(4) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 65 percent during the months of July through January, and not more than 75 percent during the months of February through June, provided that not less than 35 percent of such receipts in the months of July through January and 25 percent of the remaining months’

receipts are delivered to plants described in § 1032.7(a) and (b);

\* \* \* \* \*

**Proposal No. 6**

*Proposed by Dean Foods Company*

This proposal would establish a *dairy farmer for other markets* provision that would require a year round commitment in order for milk to be pooled.

Amend § 1032.12 by adding a new paragraph (b)(5) to read as follows:

**§ 1032.12 Producer.**

\* \* \* \* \*

(b) \* \* \*

(5) For any month, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in § 1000.9(c), if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the month or any of the preceding 11 months, unless the equivalent of at least ten days’ milk production has been physically received otherwise as producer milk at a pool distributing plant during the month.

**Proposal No. 7**

*Proposed by Dean Foods Company*

This proposal would establish a *dairy farmer for other markets* provision that would require a 2 to 4 month commitment in order for milk to be pooled.

Amend § 1032.12 by adding new paragraphs (b)(5) and (b)(6) to read as follows:

**§ 1032.12 Producer.**

\* \* \* \* \*

(b) \* \* \*

(5) For any month of February through June, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler described in § 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the month, any of the 3 preceding months, or during any of the preceding months of July through January, unless the equivalent of at least ten days’ milk production has been physically received otherwise as producer milk at a pool distributing plant during the month; and

(6) For any month of July through January, any dairy farmer whose milk is received at a pool plant or by a cooperative association handler

described in § 1000.9(c) if the pool plant operator or the cooperative association caused milk from the same farm to be delivered to any plant as other than producer milk, as defined under the order in this part or any other Federal milk order, during the month or the preceding month, unless the equivalent of at least ten days' milk production has been physically received otherwise as producer milk at a pool distributing plant during the month.

**Proposal No. 8**

*Proposed by Dean Foods Company*

This proposal would limit the pooling of milk normally associated with the market that was not pooled in a prior month to 115 percent of the producer milk receipts pooled by a handler during the prior month.

Amend § 1032.13 by adding a new paragraph (f) to read as follows:

**§ 1032.13 Producer milk.**

\* \* \* \* \*

(f) The quantity of milk reported by a handler pursuant to § 1032.32(a)(1) and/or § 1032.30(c)(1) may not exceed 115 percent of the producer milk receipts pooled by the handler during the prior month. Milk diverted to nonpool plants reported in excess of this limit shall be removed from the pool by the market administrator. Milk received at pool plants, other than pool distributing plants, shall be classified pursuant to § 1000.44(a)(3)(v) and § 1000.44(b). The handler must designate, by producer pick-up, which milk is to be removed from the pool. If the handler fails to provide this information, the market administrator will make the determination. The following provisions apply:

(1) Milk shipped to and physically received at pool distributing plants shall not be subject to the 115 percent limitation;

(2) Producer milk qualified pursuant to § \_\_.13 of any other Federal order and continuously pooled in any Federal order for the previous six months shall not be included in the computation of the 115 percent limitation;

(3) The market administrator may waive the 115 percent limitation utilizing:

(i) For a new handler on the order, subject to the provisions of § 1032.13(f)(3), or

(ii) For an existing handler with significantly changed milk supply conditions due to unusual circumstances;

(4) The market administrator may increase or decrease the applicable limitation for a month consistent with the procedures in § 1032.7(g); and

(5) A bloc of milk may be considered ineligible for pooling if the market administrator determines that handlers altered the reporting of such milk for the purpose of evading the provisions of this paragraph.

**Proposal No. 9**

*Proposed by Dean Foods Company*

This proposal would eliminate the split plant provision. Amend § 1032.7 by removing paragraph (h)(7).

**Proposal No. 10**

*Proposed by Dean Foods Company*

This proposal would require the nonpool side of a split plant to maintain nonpool status for at least 12 months as opposed to the current ability to return whenever desired.

Amend § 1032.7 by revising paragraph (h)(7) to read as follows:

**§ 1032.7 Pool plant.**

\* \* \* \* \*

(h) \* \* \*

(7) That portion of a regulated plant designated as a nonpool plant that is physically separate and operated separately from the pool portion of such plant. The designation of a portion of a plant must be requested in advance and in writing by the handler and must be received by the market administrator. Such nonpool status shall be effective on the first day of the month following receipt of the request by the market administrator and thereafter for the longer of twelve (12) consecutive months or until notification of the desire to requalify as a pool plant, in writing, is received by the market administrator. Requalification will require deliveries to a pool distributing plant(s) as provided for in § 1032.7(c). For requalification, handlers may not use milk delivered directly from producer's farms pursuant to § 1000.9(c) or § 1032.13(c) for the first month.

**Proposal No. 11**

*Proposed by Dean Foods Company*

This proposal would eliminate system pooling for supply plants and the ability for supply plants to qualify for pooling by shipping milk directly from producer farms or by diversion.

Amend § 1032.7 by removing paragraph (f), redesignating paragraphs (g) and (h) as paragraphs (f) and (g), and revising paragraph (c)(2) to read as follows:

**§ 1032.7 Pool plant.**

\* \* \* \* \*

(c) \* \* \*

(2) The operator of a pool plant under paragraph (c) located in the marketing

area may not include as qualifying shipments milk delivered directly from producer's farms pursuant to § 1000.9(c) or § 1032.13(c). Handlers may not use shipments pursuant to § 1000.9(c) or § 1032.13(c) to qualify plants located outside the marketing area;

\* \* \* \* \*

**Proposal No. 12**

*Proposed by Dean Foods Company*

This proposal would still allow supply plant systems, but would only allow a single handler as opposed to the current provision allowing multiple handlers to form a system.

Amend § 1032.7 by revising the introductory text of paragraph (f) to read as follows:

**§ 1032.7 Producer milk.**

\* \* \* \* \*

(f) A system of supply plants may qualify for pooling if 2 or more plants operated by one handler meet the applicable percentage requirements of paragraph (c) of this section in the same manner as a single plant, subject to the following additional requirements:

\* \* \* \* \*

**Proposal No. 13**

This proposal would require each supply plant pooled within a system to ship at least 40 percent of the total milk needed for pooling.

Amend § 1032.7 by revising paragraph (c)(2) and adding a new paragraph (f)(5) and to read as follows:

**§ 1032.7 Pool plant.**

\* \* \* \* \*

(c) \* \* \*

(2) The operator of a pool plant located in the marketing area may not include as qualifying shipments milk delivered directly from producer's farms pursuant to § 1000.9(c) or § 1032.13(c). Handlers may not use shipments pursuant to § 1000.9(c) or § 1032.13(c) to qualify plants located outside the marketing area;

\* \* \* \* \*

(f) \* \* \*

(5) Provided no single plant ships less than 40 percent of the applicable percentage requirement of paragraph (c) of this section.

\* \* \* \* \*

**Proposal No. 14**

*Proposed by the Central Order Market Administrator*

This proposal would require payments from the producer settlement fund to be made no later than the next business day after the due date for

payments into the producer settlement fund.

Revise § 1032.72 to read as follows:

**§ 1032.72 Payments from the producer-settlement fund.**

No later than the next business day following the due date for payments to the producer-settlement fund (§ 1032.71), the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.71(b) exceeds the amount computed pursuant to § 1032.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

**Proposal No. 15**

*Proposed by Dairy Programs,  
Agricultural Marketing Service*

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of the aforesaid marketing area, or from the Hearing Clerk, United States Department of Agriculture, Room 1083–STOP 9200, 1400 Independence Avenue, SW., Washington, DC 20250–9200, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, Agricultural Marketing Service; Office of the General Counsel; Dairy Programs, Agricultural Marketing Service (Washington Office) and the Office of the Market Administrator of the Central Milk Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: September 17, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–21281 Filed 9–17–04; 3:29 pm]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2004–19144; Directorate Identifier 2003–NE–18–AD]**

**RIN 2120–AA64**

**Airworthiness Directives; General Electric Company (GE) CF6–80C2 and CF6–80E1 Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain GE CF6–80C2 and CF6–80E1 turbofan engines. This proposed AD would require you to:

- Inspect the high pressure compressor rotor (HPCR) stage 11–14 spool shaft for circumferential repair cuts, and
- Repair or replace the spool shaft if you find certain circumferential cuts.

This proposed AD results from an updated stress analysis. We are proposing this AD to prevent failure of the HPCR stage 11–14 spool shaft due to low-cycle fatigue that could result in an uncontained engine failure.

**DATES:** We must receive any comments on this proposed AD by November 22, 2004.

**ADDRESSES:** Use one of the following addresses to send comments on this proposed AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Fax: (202) 493–2251.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You can get the service information identified in this proposed AD from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422.

You may examine the comments on this proposed AD in the AD docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7192; fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2004–19144; Directorate Identifier 2003–NE–18–AD” in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

**Examining the AD Docket**

You may examine the docket that contains the proposal, any comments received and, any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m., Monday