

# 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 Parts 1002 and 1004

[DA-96-02]

#### Milk in the New York-New Jersey and Middle Atlantic Marketing Areas; Proposed Suspension of Certain Provisions of the Orders

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

**ACTION:** Proposed suspension of rules.

**SUMMARY:** This document invites written comments on a proposal to suspend a pooling provision of the New York-New Jersey order and a provision in the Middle Atlantic order's base-excess plan. The proposal was submitted on behalf of several handlers (cooperative and proprietary) who market the milk of dairy farmers who are located in a common supply area and who have milk pooled under both orders. Proponents contend that this suspension would enable them to assemble and transport milk of producers more efficiently.

**DATES:** Comments are due no later than April 12, 1996.

**ADDRESSES:** Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, D.C. 20090-6456.

**FOR FURTHER INFORMATION CONTACT:** Gino M. Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1366.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact

on a substantial number of small entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

This proposed rule has been reviewed under Executive Order 12778, 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 file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. 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.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the orders regulating the handling of milk in the New York-New Jersey and Middle Atlantic marketing areas is being considered through September 30, 1996, beginning on May 1, 1996:

1. In § 1002.14 of the New York-New Jersey order, paragraph (d); and
2. In § 1004.92(c) of the Middle Atlantic order, the words "and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 10th day after publication of this notice in the Federal Register.

The comment period is limited to 10 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

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

This proposed action would suspend a pooling provision of the New York-New Jersey (order 2) and a provision in the Middle Atlantic (Order 4) order's base-excess plan. The suspension would allow handlers regulated under Order 2 and Order 4 to assemble and transport the milk of dairy farmers more efficiently and thereby reduce costs. Suspension of these provisions in the two orders would permit handlers to freely shift the milk of individual dairy farmers between the two markets. Proponents claim that this added flexibility would enable Order 2 and 4 handlers to furnish the fluid needs of bottling plants more effectively. Handlers will be obligated to change the pooling status of individual producers to achieve this efficiency, say the proponents.

Under the terms of Order 2, an individual dairy farmer's milk may not be pool milk during the months of December through June if any of the dairy farmer's milk was producer milk under another Federal order in the preceding months of July through November. Under the Order 4 base-excess plan provisions, a dairy farmer's milk deliveries to handlers regulated under Orders 2 and 4 during August and September would be used to compute the producer's Order 4 base only if the dairy farmer's milk was pooled on Order 4 during the remaining months (October-December) of such base-forming period. Proponents contend that suspending these order provisions would allow milk to be shifted to Order 2 from Order 4 and would also allow Order 2 milk to be shifted to Order 4

without negative consequences to producers.

Suspension of the foregoing provisions on Order 2 and 4 producers would facilitate more efficient milk assembly and transportation in a geographic area characterized by a significant overlap of milksheds and pool plants, proponents claim.

Several handlers (cooperative and proprietary) who market the milk of dairy farmers under Orders 2 and 4 requested the suspension. Proponents ask that the provisions be suspended for the months of May through September 1996.

In support of the action, proponents stated that the State of Pennsylvania has become a common milkshed for Orders 2 and 4. In June 1995 there were 3,836 Pennsylvania dairy farmers pooled on Order 2 and 3,717 Pennsylvania producers pooled on Order 4. These dairy farmers represented 37 percent of the total producers on Order 2 and 73 percent of the total producers on Order 4. They produced 27 percent of the Order 2 pool milk and 67 percent of the Order 4 producer receipts. There is significant overlap of producers supplying the two markets in the Pennsylvania counties of Lancaster, Lebanon, Chester, and Berks, proponents stated.

Proponents also indicated in their request that a large percentage of the milk that is picked up in the common supply area of Pennsylvania is delivered to Order 4 fluid milk plants located at Wawa, Sunbury and Fort Washington, Pennsylvania and Florence, New Jersey. Some of the milk produced in this same area is delivered to the Order 2 pool plants located at Lansdale and Reading.

Two proponent cooperatives (Atlantic Dairy Cooperative and Milk Marketing, Inc.) and a proprietary handler, (Dietrich's Milk Products) also a proponent of the suspension, have made plans to combine their milk routes in Pennsylvania to assemble and haul the milk from farms that are most advantageously located to plants where the milk is needed for processing. The commingling of the milk supply of these three handlers is scheduled to begin on May 1, 1996, which is the first month the suspension is to be effective.

Accordingly, it may be appropriate to suspend the aforesaid provisions from May 1, 1996 through September 30, 1996.

List of Subjects in 7 CFR Parts 1002 and 1004

Milk marketing orders.

The authority citation for 7 CFR Parts 1002 and 1004 continues to read as follows:

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

Dated: March 27, 1996.

Kenneth C. Clayton,

*Acting Administrator.*

[FR Doc. 96-7900 Filed 4-1-96; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 92-NM-71-AD]

#### Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Supplemental notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This document revises an earlier proposed airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that would have required reinforcing the lower right-hand wing skin at the fueling adapter. That proposal was prompted by results of tests, which revealed that fatigue cracks can develop in the lower right-hand wing skin at the attachment bolt holes of the fueling adapter. This action revises the proposed rule by citing the latest service information. This action also revises the applicability of the proposed AD. The actions specified by this proposed AD are intended to prevent reduced structural capability of the wing and fuel leakage.

**DATES:** Comments must be received by April 26, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-71-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. 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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ruth E. Harder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-1721; fax (206) 227-1149.

#### 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 shall 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 Number 92-NM-71-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, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-71-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

##### Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the Federal Register on June 4, 1992 (57 FR 23552). That NPRM would have required reinforcing the lower right-hand wing skin at the fueling adapter. That NPRM was prompted by results of tests, which revealed that fatigue cracks can develop in the lower right-hand wing skin at the attachment bolt holes of the fueling adapter. That condition, if not corrected, could result in reduced