

# Proposed Rules

Federal Register

Vol. 61, No. 172

Wednesday, September 4, 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-96-11]

#### Milk in the Iowa Marketing Area; Notice of Proposed Revision of Pool Supply Plant Shipping Percentage

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

**ACTION:** Proposed rule.

**SUMMARY:** This notice invites written comments on a proposal to increase 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 increased by 10 percentage points, from 35 percent to 45 percent for the months of September through November 1996, and from 20 percent to 30 percent for the months of December 1996 through March 1997. The action is requested by Anderson-Erickson Dairy Company of Des Moines, Iowa, a proprietary distributing plant that is regulated under the order. Proponent contends that the action is needed to obtain an adequate supply of milk for fluid use.

**DATES:** Comments are due no later than September 11, 1996.

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

**FOR FURTHER INFORMATION CONTACT:** Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9368.

**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 Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would tend to ensure that an adequate supply of fluid milk is available to consumers in the marketing area.

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

This proposed revision of rules has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this 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 the 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 date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 and the provisions of § 1079.7(b)(1) of the order, the revision of certain provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the months of September 1, 1996 through March 31, 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 publication of this notice in the Federal Register. The filing period is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September 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)).

#### Small Business Consideration

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). 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 \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purpose of determining which dairy farms are "small businesses", the \$500,000 per year criterion was divided by 12, then by the uniform price, to arrive at a 300,000 pounds-per-month limit for "small" dairy farmers.

The supply plant shipping percentage provisions proposed to be revised are incorporated in the order to assure an adequate supply of milk for the fluid market. It is expected that producers and their handlers who share in the benefits of the higher-valued fluid uses of the market through their participation in a marketwide pool should be required to help supply milk to fluid milk distributing plants when additional supplies are needed. As a result of this expectation, order provisions based on testimony and data presented at a public hearing in which all interested parties were encouraged to participate were promulgated and approved by at least two-thirds of the dairy farmers whose milk was pooled under the Iowa order.

The Iowa order provides that the pool supply plant shipping percentages in the order may be increased or reduced by the Director of the Dairy Division, Agricultural Marketing Service, to assure that an adequate supply of milk will be made available to distributing plants, or to avoid excessive costs of

hauling and handling milk that may be moved to distributing plants only to pool plentiful supplies of producer milk.

For the month of June 1996, 2,896 dairy farmers were producers under the Iowa milk order. Of these, all but 24 would be considered small businesses, having under 300,000 pounds of production for the month. Of the dairy farmers in the small business category, 2,312 produced under 100,000 pounds of milk, 515 produced between 100,000 and 200,000 pounds, and 45 produced between 200,000 and 300,000 pounds of milk during June.

The reports filed on behalf of the slightly more than 20 milk handlers pooled, or regulated, under the Iowa order in June 1996 were filed for individual establishments that, for the most part, would meet the SBA definition of a small business, having less than 500 employees. However, most of these establishments are part of larger businesses that operate multiple plants, and meet the definition of large entities on that basis.

The proposed revision would increase the percentage of milk receipts that handlers are required to move to fluid milk distributing plants. If the shipping percentages are revised, some handlers may choose to move increased volumes of their milk supplies from manufacturing uses to fluid use in order to assure that all of their producer milk supplies will be able to share in the benefits of the marketwide pool. Some handlers may elect to not pool some of their producer milk supplies rather than ship more milk to distributing plants. Others may already be moving as much as they would be required to move under increased percentages, and would be unaffected by the proposed revision.

If the shipping percentages are not increased the distributing plant operator requesting the revision, who would be described as a large entity on the basis of its multiple plant operations, may not be able to obtain an adequate supply of milk at a competitive price to meet its needs. The handlers from whom the distributing plant handler would be most likely to receive increased shipments are also, for the most part, large entities.

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

#### Statement of Consideration

The provision proposed for revision is the percentage of a supply plant's receipts required to be shipped to pool distributing plants pursuant to § 1079.7(b) of the Iowa Federal milk order (Order 79). As proposed, the percentage of a supply plant's receipts that must be shipped to pool distributing plants (fluid milk plants) if the supply plant is to be considered a pool plant would be increased by the maximum allowable 10 percentage points, from 35 percent to 45 percent for the period September 1, 1996, through November 30, 1996, and from 20 percent to 30 percent for the period December 1, 1996, through March 31, 1997.

Section 1079.7(b)(1) 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 milk shipments or to assure an adequate supply of milk for fluid use.

Anderson-Erickson Dairy Company (A-E), a fluid milk processing plant that is a pool distributing plant under Order 79, requested that the shipping percentage be increased. The handler's request states that it is unable to obtain a supply of milk at the present market price, leaving A-E short of its needs for fluid milk. A-E cites difficulty in attracting milk for high-valued bottling use, which requires drawing milk away from lower-valued uses of milk such as nonfat dry milk and cheese that may be more remunerative to processors.

In view of the foregoing, it may be appropriate to increase the shipping percentage requirements for pool supply plants as proposed to provide for the efficient and economic marketing of milk during the months of September 1, 1996, through March 31, 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: August 26, 1996.

Richard M. McKee,

*Director, Dairy Division.*

[FR Doc. 96-22452 Filed 9-3-96; 8:45 am]

BILLING CODE 3410-02-P

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. 96-NM-69-AD]

RIN 2120-AA64

##### Airworthiness Directives; Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 Series Airplanes

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 series airplanes. This proposal would require replacement of the hubcap drive coupling of the main wheel with an improved coupling. This proposal is prompted by reports of unexpected decreases in the pressure of the main wheel brake due to incorrect engagement between the main wheel coupling and the wheel speed transducer, which can result in false signals being sent to the anti-skid control box. The actions specified by the proposed AD are intended to prevent loss of brake effectiveness due to a decrease in the pressure of the main wheel brake.

**DATES:** Comments must be received by October 15, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-69-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 SAAB Aircraft AB, SAAB Aircraft Product Support, S-581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

**FOR FURTHER INFORMATION CONTACT:** Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount