

less than 500 employees. However, most of these plants are part of larger businesses that operate multiple plants and meet the definition of large entities on that basis.

The proposed rule would suspend certain portions of the pool plant and producer definitions of the Eastern Colorado order. The proposed suspension would make it easier for handlers to qualify milk for pooling under the order and 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.

#### Proposed Suspension—Eastern Colorado—DA-96-13

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 proposed suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that has pooled milk of dairy farmers on the Eastern Colorado order for several years. Mid-Am has requested the suspension to prevent the uneconomic and inefficient movement of milk for the sole purpose of pooling the milk of producers historically associated with the Eastern Colorado order.

Mid-Am requests for the months of September 1996 through February 1997 the removal of the restriction on the months when automatic pool plant status applies for supply plants. Mid-Am also proposes that, for the months of September 1996 through August 1997, the touch-base requirement not apply and the diversion allowance for cooperatives be raised.

These provisions have been suspended previously in order to maintain the pool status of producers who have historically supplied the fluid needs of Eastern Colorado distributing plants. Mid-Am states that the marketing conditions that justified the prior suspensions continue to exist. Mid-Am asserts that they have made a commitment to meet the fluid requirements of fluid distributing plants if the suspension request is granted. Without the suspension, Mid-Am contends that it will be necessary to ship milk from distant farms to Denver-area bottling plants to qualify milk for pooling. The distant milk will displace locally-produced milk that would then have to be shipped from the Denver area

to manufacturing plants located in outlying areas.

In addition, Mid-Am maintains that ample supplies of locally produced milk that can be delivered directly to distributing plants will be available to meet the market's fluid needs without requiring shipments from supply plants. Mid-Am also claims that neither the elimination of the touch-base requirement for producers nor the increase in the amount of milk that a cooperative can divert to nonpool plants should jeopardize the needs of the market's fluid processors.

In view of the foregoing, it may be appropriate to suspend the aforesaid portion of the pool plant and producer definitions of the Eastern Colorado order for the time periods stated.

#### List of Subjects in 7 CFR Part 1137

Milk marketing orders.

The authority citation for 7 CFR part 1137 continues to read as follows:

Authority: §§ 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Dated: August 30, 1996.

Kenneth C. Clayton,  
*Acting Administrator.*

[FR Doc. 96-22787 Filed 9-5-96; 8:45 am]

BILLING CODE 3410-02-P

#### 7 CFR Part 1160

[DA-96-09]

#### Fluid Milk Promotion Order; Invitation To Submit Comments on Proposed Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

**SUMMARY:** This document invites written comments on proposals to amend the Fluid Milk Promotion Order. The proposed amendments, requested by the National Fluid Milk Processor Promotion Board, which administers the order, would modify the term limits and membership status of Board members. The proposed rule would also amend certain order language in conformance with the 1996 Federal Agriculture Improvement and Reform Act. In addition, this proposed rule would revise or remove order language that has become obsolete and no longer effectuates the declared policy of the Fluid Milk Promotion Act of 1990, as amended.

**DATES:** Comments are due no later than October 7, 1996.

**ADDRESSES:** Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Promotion and Research

Staff, Room 2734, South Building, P.O. Box 96456, Washington, DC 20090-6456.

**FOR FURTHER INFORMATION CONTACT:** Eugene Krueger, Head, Promotion and Research Staff, USDA/AMS/Dairy Division, Room 2734, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-6909.

#### Small Business Consideration

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Small businesses in the fluid milk processing industry have been defined by the Small Business Administration as those employing less than 500 employees. There are approximately 250 fluid milk processors subject to the provisions of the Fluid Milk Promotion Order. Most of the parties subject to the Order are considered small entities.

This rule would modify the term of office and membership provisions of the Fluid Milk Promotion Order. The proposed amendments would allow a National Fluid Milk Processor Promotion Board member who changes fluid milk processor affiliations during his or her term to be eligible to serve on the Board in another capacity during that same term. The proposed amendments would also modify the term of Board members to allow any member elected during the initial period to serve a term of one or two years to be eligible for reappointment for two additional three-year terms. The proposed amendments should clarify the Order with respect to membership status and term limits of its members.

This rule would also amend order language in conformance with the 1996 Federal Agriculture Improvement and Reform Act; the definition of research would be changed to conform with the definition in the Act and the order would be revised to reflect changes in the 1996 Act concerning those fluid milk processors who may request a referendum to suspend or terminate the order and who may vote to suspend or terminate the order or adjust the assessment rate.

Further, the rule would also revise or remove obsolete or unnecessary order language in conformance with the President's Regulatory Reform Initiative. Pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule would not have a significant economic impact on a substantial number of small entities.

**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 would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Fluid Milk Promotion Act of 1990, as amended, authorizes the Fluid Milk Promotion Order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1999K of the Act, any person subject to a Fluid Milk Promotion Order may file 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 the law and request a modification of the Order or to be exempted from the Order. A person subject to an order 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 person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are included in the Fluid Milk Promotion Order have been approved previously by the Office of Management and Budget (OMB) and were assigned OMB No. 0581-0093, except for Board members' nominee information sheets that were assigned OMB No. 0505-0001.

Statement of Consideration

The proposed rule would amend certain provisions of the Fluid Milk Promotion Order. Certain proposed amendments would modify the term limits and the membership status provisions of the Order. The proposed amendments would allow a National Fluid Milk Processor Promotion Board member who changes fluid milk processor affiliations during his or her term to be eligible to serve on the Board in another capacity during that same term. Under current order provisions, a Board member who changes fluid milk processor affiliations during his or her term is ineligible to serve on the Board in any capacity.

The proposed amendments would also modify the term of Board members to allow any member elected during the initial period to serve a term of one or

two years to be eligible for reappointment for two additional three-year terms. Currently, the Order states that a Board member appointed to serve during the initial period is eligible to be reappointed to serve only one additional three-year term. Under these order provisions, some Board members will serve an initial term of less than three years because of the staggering of terms. The Board contends that the proposed amendments will clarify the Order with respect to membership status and term limits of its members.

This document also proposes to amend the Fluid Milk Promotion Order to conform with legislated changes made by the recently enacted 1996 Federal Agriculture Improvement and Reform Act (P.L. 104-127). Section 146 of the Act amends sections 1999C(6), 1999N(b)(2), 1999O(c), and 1999O(a) of the Fluid Milk Promotion Act of 1990, as amended, thereby necessitating changes to the Fluid Milk Promotion Order. The following sections of the Order would be amended on this basis:

1. In § 1160.112, Research would be redefined in conformance with the Act.
2. In § 1160.501, paragraphs (a) and (b)(2) would be amended in conformance with the Act in order to specify those fluid milk processors who may request a referendum to suspend or terminate the Order.
3. In § 1160.605, paragraph (b)(2) would be amended in conformance with the Act in order to specify those fluid milk processors who, on the basis of a referendum, may vote to suspend or terminate the Order, or adjust the assessment rate.

The President's Regulatory Reform Initiative, among other things, directs agencies to remove obsolete and unnecessary language and to find less burdensome ways to achieve regulatory goals. Changes are proposed in conformance with the initiative. These amendments to the Order and regulations would revise or remove order language that was needed to implement the order but is no longer needed. This language is obsolete and unnecessary because it relates to the initial fiscal period and the previously conducted initial continuation referendum. Provisions of the following sections of the Order would be amended on this basis:

1. § 1160.108 Fluid milk processor.
2. § 1160.113 Fiscal period.
3. § 1160.116 Initial referendum.
4. § 1160.209 Duties of the Board.
5. § 1160.211 Assessments.
6. § 1160.501 Continuation referenda.
7. § 1160.605 Date of the referendum.

List of Subjects in 7 CFR Part 1160

Fluid milk products, Milk, Promotion.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 1160 is amended as follows:

#### **PART 1160—FLUID MILK PROMOTION PROGRAM**

1. The authority citation for 7 CFR Part 1160 continues to read as follows:

Authority: 7 U.S.C. 6401-6417.

2. In § 1160.108, paragraph (a) is revised to read as follows:

##### **§ 1160.108 Fluid milk processor.**

(a) *Fluid milk processor* means any person who processes and markets commercially fluid milk products in consumer-type packages in the United States, except that the term fluid milk processor shall not include in each of the respective fiscal periods those persons who process and market not more than 500,000 pounds of such fluid milk products during the representative month, which shall be the first month of the fiscal period; *Provided, however*, that for the fiscal period following the initial fiscal period, the representative month shall be September 1995.

\* \* \* \* \*

3. Section 1160.112 is revised to read as follows:

##### **§ 1160.112 Research.**

*Research* means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, and product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.

4. Section 1160.113 is revised to read as follows:

##### **§ 1160.113 Fiscal period.**

*Fiscal period* means the initial period of up to 30 months that this subpart is effective. Thereafter, the fiscal period shall be such annual period as the Board may determine, except that the Board may provide for a lesser or greater period as it may find appropriate for the period immediately after the initial fiscal period to assure continuity of fiscal periods until the beginning of the first annual fiscal period.

##### **§ 1160.116 [Removed and Reserved]**

5. Section 1160.116 is removed and reserved.

##### **§ 1160.200 [Amended]**

6. In § 1160.200, paragraph (a) is amended by adding the words "in the position previously held by such

member" after the words "membership on the board".

7. In § 1160.201, paragraph (b) is revised to read as follows:

**§ 1160.201 Term of office.**

\* \* \* \* \*

(b) No member shall serve more than two consecutive terms, except that any member who is appointed to serve for an initial term of one or two years shall be eligible to be reappointed for two three-year terms. Appointment to another position on the Board is considered a consecutive term.

**§ 1160.209 Duties of the board.**

8. In § 1160.209, paragraph (b) is revised to read as follows:

\* \* \* \* \*

(b) To prepare and submit to the Secretary for approval a budget for each fiscal period of the anticipated expenses and disbursements in the administration of this subpart, including a description of and the probable costs of consumer education, promotion and research projects;

\* \* \* \* \*

9. In § 1160.211, paragraphs (a)(1) and (a)(2) are revised to read as follows:

**§ 1160.211 Assessments.**

(a)(1) Each fluid milk processor shall pay to the Board or its designated agent an assessment of \$.20 per hundredweight of fluid milk products processed and marketed commercially in consumer-type packages in the United States by such fluid milk processor. Producer-handlers required to pay assessments under section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)), and not exempt under § 1160.108, shall also pay the assessment under this subpart. No assessments are required on fluid milk products exported from the United States. The Secretary shall have the authority to receive assessments on behalf of the Board.

(2) The Secretary shall announce the establishment of the assessment each month in the Class I price announcement in each milk marketing area by adding it to the Class I price for the following month. In the event the assessment is suspended for a given month, the Secretary shall inform all fluid milk processors of the suspension in the Class I price announcement for that month. The Secretary shall also inform fluid milk processors marketing fluid milk in areas not subject to milk marketing orders administered by the Secretary of the establishment or suspension of the assessment.

\* \* \* \* \*

10. Section 1160.501 is amended by removing paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (a) through (c), removing the the cross reference "1160.501(c)" in paragraph (c) and adding in its place "1160.501(b)", and revising newly designated paragraphs (a) and (b)(2) to read as follows:

**§ 1160.501 Continuation referenda.**

(a) The Secretary at any time may conduct a referendum among those persons who the Secretary determines were fluid milk processors during a representative period, as determined by the Secretary, on whether to suspend or terminate the order. The Secretary shall hold such a referendum at the request of the Board or of any group of such processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed in the United States by fluid milk processors voting in the preceding referendum.

(b) \* \* \*

(1) \* \* \*

(2) By fluid milk processors voting in the referendum that marketed during a representative period, as determined by the Secretary, 40 percent or more of the volume of fluid milk products marketed in the United States by fluid milk processors voting in the referendum.

11. In § 1160.605, paragraph (a) is removed, paragraphs (b) through (c) are redesignated as paragraphs (a) through (b), and newly designated paragraph (b)(2) is revised to read as follows:

**§ 1160.605 Date of referendum.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(2) Upon request of the Board or upon request of any group of fluid milk processors that among them marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the preceding referendum.

Dated: August 30, 1996.

Kenneth C. Clayton,

*Acting Administrator.*

[FR Doc. 96-22788 Filed 9-5-96; 8:45 am]

BILLING CODE 3410-02-P

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 178**

[Notice No. 839]

RIN 1512-AB41

**Definitions for the Categories of Persons Prohibited From Receiving Firearms (95R-051P)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide definitions for the categories of persons prohibited from receiving or possessing firearms. The proposed definitions will facilitate the implementation of the national instant criminal background check system (NICS) required under the Brady Handgun Violence Prevention Act.

**DATES:** Written comments must be received on or before December 5, 1996.

**ADDRESSES:** Send written comments to: Chief, Regulations Branch; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; ATTN: Notice No. 839.

**FOR FURTHER INFORMATION CONTACT:** James P. Ficareta, Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8230).

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 30, 1993, Public Law 103-159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Pub. L. 103-159, the "Brady Handgun Violence Prevention Act" (hereafter, "Brady" or "Brady law"), imposed a waiting period of 5 days before a licensed importer, licensed manufacturer, or licensed dealer may transfer a handgun to a nonlicensed individual (interim provision). Brady requires that the chief law enforcement officer within 5 business days make a reasonable effort to determine whether the nonlicensed individual (transferee) is prohibited by law from receiving or possessing the handgun sought to be purchased. The waiting period provisions of the law became effective on February 28, 1994, and will cease to apply on November 30, 1998.