

# 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 Part 1079

[DA-98-07]

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

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

**ACTION:** Proposed temporary revision of rule.

**SUMMARY:** This document invites written comments on a proposal to reduce 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 decreased by 10 percentage points, from 35 percent of plant receipts to 25 percent of such receipts for the months of September through November 1998. The action is requested by Beatrice Cheese, Inc., a proprietary manufacturer of dairy products in Fredericksburg, Iowa. The proponent contends that the action is needed to prevent uneconomic milk movements.

**DATES:** Comments must be submitted on or before August 26, 1998.

**ADDRESSES:** Comments (two copies) should be sent to USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456. Advance, unofficial copies of such comments may be faxed to (202) 690-0552 or e-mailed to OFB-FMMO-Comments@usda.gov. Reference should be made to the title of action and docket number.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 720-2357, e-mail address: connie\_m\_brenner@usda.gov.

**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 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 request modification or exemption from such order by filing 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. 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.

#### Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered 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 purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for

most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of March 1998, 3,768 dairy farmers were producers under the Iowa Order. Of these, all but 68 would be considered small businesses, having under 326,000 pounds of production for the month. Of the dairy farmers in the small business category, 2,682 produced under 100,000 pounds of milk, 876 produced between 100,000 and 200,000, and 142 produced between 200,000 and 326,000 pounds during March 1998.

Generally, the reports filed on behalf of the slightly more than 20 milk plants pooled, or regulated, under the Iowa Order in March 1998 were filed for establishments that would meet the SBA definition of a small business on an individual basis, having less than 500 employees. However, all but four of the milk handlers represented in the market are part of larger businesses that operate multiple plants at which their collective size exceeds the SBA definition of a small business entity.

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

The reduction of the required supply plant shipping percentage for the months of September through November 1998 would allow the milk of producers traditionally associated with the Iowa market to continue to be pooled and priced under the order. The revision would lessen the likelihood that more milk shipments to pool plants might be required under the order than are actually needed to supply the fluid milk needs of the market and would result in savings in hauling costs for handlers and producers.

#### Notice of Proposed Revision and Opportunity to File Comments

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act and the provisions of § 1079.7(b)(1) of the Iowa Federal milk order, the temporary revision of certain provisions of the

order regulating the handling of milk in the Iowa marketing area is being considered for September 1, 1998, through November 30, 1998.

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 Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456 by the 30th day after publication of this notice in the **Federal Register**. The filing period is limited to 30 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 Programs offices during regular business hours (7 CFR 1.27(b)).

#### Statement of Consideration

The provision proposed to be revised 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 marketing 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 decreased by the maximum allowable 10 percentage points, from 35 percent to 25 percent for the period September 1, 1998, through November 30, 1998.

Section 1079.7(b)(1) of the Iowa milk marketing order allows the Deputy Administrator, Dairy Programs, 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.

Beatrice Cheese, Inc. (Beatrice), a proprietary manufacturer of dairy products in Fredericksburg, Iowa, is regulated under Order 79 as a pool supply plant. Beatrice requested that the shipping percentage be reduced by 10 percentage points for the months of September through November 1998. The handler's request states that this decrease is warranted due to the fact that current raw milk supplies available for fluid use exceed the needs of the fluid milk plants in Order 79. Beatrice states that if the pool supply shipping percentages remain unchanged, Beatrice will be forced to move milk uneconomically or unfairly depool some milk produced by Iowa dairymen, denying them participation in the Order 79 pool.

In view of the current supply and demand relationship, it may be necessary to decrease the shipping percentage requirements for pool supply plants to provide for the efficient and economic marketing of milk during the period September 1, 1998, through November 30, 1998.

#### 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: July 21, 1998.

**Richard M. McKee,**

*Deputy Administrator, Dairy Programs.*

[FR Doc. 98-19908 Filed 7-24-98; 8:45 am]

BILLING CODE 3410-02-P

#### NORTHEAST DAIRY COMPACT COMMISSION

##### 7 CFR Part 1301

#### Notice of Meeting

**AGENCY:** Northeast Dairy Compact Commission.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Compact Commission will hold its monthly meeting to consider whether to adopt as a Final rule the Proposed Rule to amend the current Compact Over-order Price Regulation to exclude milk from the pool which is either diverted or transferred, in bulk, out of the Compact regulated area. The Commission will also consider whether to adopt as a Final Rule the Proposed Rule to establish a reserve fund for reimbursement to school food authorities. Matters relating to administration and the price regulation to include the reports and recommendations of the Commission's standing Committees and action upon the Proposed Amendments to the Bylaws as noticed to the Commission at the July 1, 1998 are also scheduled.

**DATES:** The meeting is scheduled for Wednesday, August 5, 1998 to commence at 10:00 a.m.

**ADDRESSES:** The meeting will be held at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, NH (exit 14 off I-93).

**FOR FURTHER INFORMATION CONTACT:** Kenneth Becker, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229-1941.

**SUPPLEMENTARY INFORMATION:** The Compact Commission will hold its

monthly meeting to consider whether to adopt as a Final rule the Proposed Rule to amend the current Compact Over-order Price Regulation to exclude milk from the pool which is either diverted or transferred, in bulk, out of the Compact regulated area. The proposal will limit the payment of the compact over-order producer price to milk disposed of within the Compact regulated area. The Commission will also consider whether to adopt as a Final Rule the Proposed Rule to establish a reserve fund for reimbursement to school food authorities. The current Compact Over-order Price Regulation is codified at 7 CFR 1300 through 1308. The proposed reserve fund is required to implement the previously issued regulation exempting certain milk sold by school food authorities from the Over-order Price Regulation. Matters relating to administration and the price regulation to include the reports and recommendations of the Commission's standing Committees and action upon the Proposed Amendments to the Bylaws as noticed to the Commission at the July 1, 1998, as required, are also scheduled.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and 7 U.S.C. 7256.)

**Kenneth Becker,**

*Executive Director.*

[FR Doc. 98-19923 Filed 7-24-98; 8:45 am]

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

##### 21 CFR Part 20

[Docket No. 98N-0518]

#### Public Information; Communications With State and Foreign Government Officials

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

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend its regulations governing communications with State and foreign government officials. The proposed rule would permit FDA to disclose confidential commercial information to international organizations having responsibility to facilitate global or regional harmonization of standards and requirements. These disclosures would, in almost all instances, occur only with