

addition they maintain that the suspension would continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions from August 1, 1997, through July 31, 1999.

#### List of Subjects in 7 CFR Part 1126

Milk marketing orders.

The authority citation for 7 CFR Part 1126 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

Dated: May 7, 1997.

**Richard M. McKee,**

*Director, Dairy Division.*

[FR Doc. 97–12502 Filed 5–12–97; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1138

[DA–97–07]

#### Milk in the New Mexico-West Texas Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

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

**ACTION:** Proposed suspension of rule.

**SUMMARY:** This document invites written comments on a proposal that would continue the suspension of certain segments of the pool plant and producer milk definitions of the New Mexico-West Texas order for a two-year period. Associated Milk Producers, Inc. (AMPI), a cooperative association that represents a substantial number of the producers who supply milk to the market, has requested continuation of the suspension. The cooperative asserts that continuation of the suspension is necessary to ensure that dairy farmers who have historically supplied the New Mexico-West Texas order will continue to have their milk priced under the order without incurring costly and inefficient movements of milk.

**DATES:** Comments are due no later than June 12, 1997.

**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, DC 20090–6456.

#### FOR FURTHER INFORMATION CONTACT:

Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202)720–9368, e-mail address: Clifford \_\_ M \_\_ Carman@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 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 1997, the milk of 174 producers was pooled on the New Mexico-West Texas Federal milk order. Of these producers, 26 producers were below the 326,000-pound production guideline and are considered small businesses. During this same period, there were 19 handlers operating pool plants under the New Mexico-West Texas order. Twelve of these handlers would be considered small businesses.

The proposed suspension would continue the current suspension of segments of the pool plant and producer milk definitions under the New Mexico-West Texas order. The provisions proposed for continued suspension limit the pooling of diverted milk. 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.

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.

#### Proposed Rule

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the order regulating the handling of milk in the New Mexico-West Texas marketing area is being considered for the months of October 1, 1997, through September 30, 1999:

1. In § 1138.7, paragraph (a)(1), the words "including producer milk diverted from the plant,";

2. In § 1138.7, paragraph (c), the words "35 percent or more of the producer"; and

3. In § 1138.13(d), paragraphs (1), (2), and (5).

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 30th day after publication of this notice in the **Federal Register**.

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

The proposed suspension would continue the current suspension of segments of the pool plant and producer milk definitions under the New Mexico-West Texas order. The provisions that are suspended limit the pooling of diverted milk. The proposed suspension would be in effect from October 1997 through September 1999. The current suspension will expire September 30, 1997.

The proposed suspension would continue the suspension of the following:

1. The requirement that milk diverted to a nonpool plant be considered a receipt at the distributing plant from which it was diverted;

2. The requirement that a cooperative must deliver at least 35 percent of its milk to pool distributing plants in order to pool a plant that the cooperative operates which is located in the marketing area and is neither a distributing plant nor a supply plant;

3. The requirement that a producer must deliver one day's production to a pool plant during the months of September through January to be eligible to be diverted to a nonpool plant;

4. The provision that limits a cooperative's diversions to nonpool plants to an amount equal to the milk it caused to be delivered to, and physically received at, pool plants during the month; and

5. The provision that excludes from the pool milk diverted from a pool plant to the extent that it would cause the plant to lose its status as a pool plant.

The continuation of the current suspension was requested by Associated Milk Producers, Inc., a cooperative association that represents a substantial number of dairy farmers who supply the New Mexico-West Texas market. The cooperative stated that marketing conditions have not changed since the provisions were suspended in 1993, and therefore should be continued until restructuring of the Federal order program is achieved as mandated in the 1996 Farm Bill.

The cooperative states that the continuation of the current suspension is necessary to ensure that dairy farmers who have historically supplied the New Mexico-West Texas market will continue to have their milk priced

under this order. In addition, they maintain that the suspension would continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

Accordingly, it may be appropriate to suspend the aforesaid provisions from October 1, 1997, through September 30, 1999.

#### List of Subjects in 7 CFR Part 1138

Milk marketing orders.

The authority citation for 7 CFR Part 1138 continues to read as follows:

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

Dated: May 7, 1997.

**Richard M. McKee,**

*Director, Dairy Division.*

[FR Doc. 97-12501 Filed 5-12-97; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-NM-46-AD]

RIN 2120-AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB-120 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 all EMBRAER Model EMB-120 series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the ice protection systems, and to add information regarding operation in icing conditions. This proposal also would require installing an ice detector system and revising the AFM to include procedures for testing system integrity. This proposal is prompted by reports indicating that flightcrews experienced difficulties controlling the airplane during (or following) flight in normal icing conditions, when the ice protection system either was not activated when ice began to accumulate on the airplane, or the ice protection system was never

activated. These difficulties may have occurred because the flightcrews did not recognize that a significant enough amount of ice had formed on the airplane to require activation of the deicing equipment. The actions specified by the proposed AD are intended to ensure that the flightcrew is able to recognize the formation of significant ice accretion and take appropriate action; such formation of ice could result in reduced controllability of the airplane in normal icing conditions.

**DATES:** Comments must be received by June 24, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-46-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 Embraer, Empresa Brasileira De Aeronautica S/A, Sao Jose Dos Campos, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia.

**FOR FURTHER INFORMATION CONTACT:** Carla Worthey, Aerospace Engineer, Systems and Flight Test Branch, ACE-116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7364; fax (404) 305-7348.

#### 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.