

# 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 1131

[DA-97-01]

#### Milk in the Central Arizona Marketing Area; Proposed Suspension of Certain Provisions of the Order

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

**ACTION:** Proposed rule; suspension.

**SUMMARY:** This document invites written comments on a proposal to suspend indefinitely certain provisions of the Central Arizona Federal milk marketing order. This rule would continue a suspension that eliminates the requirement that a cooperative association that operates a manufacturing plant ship at least 50 percent of its receipts to other handler pool plants to maintain pool status of its manufacturing plant. United Dairywomen of Arizona, a cooperative association that represents nearly all of the producers who supply milk to the Central Arizona market, has requested continuation of the suspension. The cooperative association asserts that the suspension is necessary to prevent the uneconomical and inefficient movement of milk.

**DATES:** Comments must be submitted on or before March 18, 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. 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 given to the title of action and docket number.

**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: CMCarman@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. 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.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Central Arizona marketing area is being considered for an indefinite period beginning April 1, 1997:

In § 1131.7(c), the words "50 percent or more of", "(including the skim milk and butterfat in fluid milk products transferred from its own plant pursuant to this paragraph that is not in excess of the skim milk and butterfat contained in member producer milk actually received at such plant)", and "or the previous 12-month period ending with the current month."

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 15th day after publication of this notice in the Federal Register. The period for filing comments is limited to 15 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

The proposed rule would continue to suspend certain provisions of the Central Arizona order for an indefinite period beginning April 1, 1997. The proposed suspension would continue to remove the requirement that a cooperative association which operates a manufacturing plant in the marketing area must ship at least 50 percent of its milk supply during the current month or the previous 12-month period ending with the current month to other handlers' pool plants to maintain the pool status of its manufacturing plant.

The order permits a cooperative association's manufacturing plant, located in the marketing area, to be a pool plant if at least 50 percent of the producer milk of members of the cooperative association is physically received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month.

Continuation of the current suspension was requested by United Dairymen of Arizona (UDA), a cooperative association that represents nearly all of the dairy farmers who supply the Central Arizona market. UDA contends that the continued pool status of their manufacturing plant would be threatened if the suspension is not continued. UDA states that the same marketing conditions that warranted the suspension for the past two years still exist. UDA maintains that members who increased their milk production to meet the projected demands of fluid handlers for distribution into Mexico continue to suffer the adverse impact of the collapse of the Mexican peso. Absent a suspension, UDA projects that costly and inefficient movements of milk would have to be made to maintain pool status of producers who have historically supplied the market and to prevent disorderly marketing in the Central Arizona marketing area.

Accordingly, it may be appropriate to suspend the aforesaid provisions beginning April 1, 1997, for an indefinite period.

#### List of Subjects in 7 CFR Part 1131

Milk marketing orders.

The authority citation for 7 CFR Part 1131 continues to read as follows:

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

Dated: February 24, 1997.

Richard M. McKee,

Director, Dairy Division.

[FR Doc. 97-5114 Filed 2-28-97; 8:45 am]

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#### Rural Utilities Service

##### 7 CFR Part 1717

RIN 0572-AB26

#### Settlement of Debt Owed by Electric Borrowers

AGENCY: Rural Utilities Service.

ACTION: Proposed rule.

**SUMMARY:** The Administrator of the Rural Utilities Service (RUS) hereby proposes to establish policies and standards for the settlement of debts and claims owed by rural electric borrowers. In addition to proposing policies and standards for debt settlement, the rule proposes RUS policy on subsequent loans to borrowers whose debt has been restructured.

**DATES:** Written comments must be received by RUS or carry a postmark or equivalent by May 2, 1997.

**ADDRESSES:** Written comments should be addressed to Monte Heppe, Jr., Director, Program Support and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Stop 1522, 1400 Independence Ave. SW., Washington, DC 20250-1522. RUS requires, in hard copy, a signed original and 3 copies of all comments (7 CFR 1700.30(e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Mr. Blaine D. Stockton, Jr., Assistant Administrator—Electric, U.S. Department of Agriculture, Rural Utilities Service, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250-1560. Telephone: 202-720-9545.

**SUPPLEMENTARY INFORMATION:** This regulatory action has been determined to be significant for the purposes of Executive Order 12866, Regulatory Planning and Review, and therefore has been reviewed by the Office of Management and Budget (OMB). The Administrator of the Rural Utilities Service (RUS) has determined that a rule relating to the RUS electric loan program is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and, therefore, the Regulatory Flexibility Act does not apply to this proposed rule. The Administrator of RUS has determined that this rule will not significantly affect the quality of the

human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment. This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A Notice of Final Rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS electric loans and loan guarantees from coverage under this Order. This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Sec. 3 of the Executive Order.

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850 Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402-9325.

#### Background

On April 4, 1996, P.L. 104-127 amended section 331(b) of the Consolidated Farm and Rural Development Act (Con Act) to extend to RUS loans and loan guarantees the Secretary of Agriculture's authority to compromise, adjust, reduce, or charge-off debts or claims owed to the government (collectively, debt settlement). The amendment also extended to the security instruments, leases, contracts, and agreements administered by RUS, the Secretary's authority to adjust, modify, subordinate, or release the terms of those documents. The Secretary of Agriculture, in 7 CFR 2.47, has delegated authority under section 331(b) to the Administrator of RUS, with respect to loans made or guaranteed by RUS.

This proposed regulation proposes the policies, standards, and procedures the Administrator would use in settling (restructuring) debts and claims owed by rural electric borrowers.

#### Section 1717.1202 General Policy

This section proposes general policies for settling debts and claims. Four general policies are proposed:

1. Wherever possible, all debt and claims will be collected in full in accordance with its terms.
2. The rule by itself contains nothing that modifies or forgives debt or claims owed by a borrower. Any debt