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–99–02]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed 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 20 percent to 10 percent for the months of April through August 1999. The action was requested by Beatrice Cheese, Inc., a proprietary manufacturer of dairy products in Fredericksburg, Iowa. The proponent contends that the action would allow the milk of dairymen who historically have supplied the market to continue to be pooled under the Federal order and is needed to prevent uneconomic milk movements.

DATES: Comments must be submitted on or before April 26, 1999.

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 February 1999, 3,788 dairy farmers were producers under the Iowa order. Of these, 3,714 producers (i.e., 98 percent) were considered small businesses, having monthly milk production under 326,000 pounds. A further breakdown of the monthly milk production of the producers on the order during February 1999 was as follows: 2,804 produced less than 100,000 pounds of milk; 776 produced between 100,000 and 200,000; 134 produced between 200,000 and 326,000; and 74 produced over 326,000 pounds. During the same month, 11 handlers were pooled under the order. Five were considered small businesses.

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 April through August 1999 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 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 the months of April through August 1999.

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 April 26, 1999. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include April 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 20 percent to 10 percent, for the period April 1, 1999, through August 31, 1999.

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 April through August 1999. The handler's request states that this decrease is warranted due to the fact that current raw milk supplies available for fluid use from outside of Iowa's traditional procurement area exceed the needs of the fluid milk plants in Federal Order 79 and that these available supplies have replaced milk shipped to distributing plants by Beatrice. Beatrice states that if the pool supply shipping percentages remain unchanged, the milk of dairymen who historically have supplied the Iowa market will not be able to continue to be pooled under the Federal Order, and Beatrice will be forced to move milk uneconomically.

In view of the current supply and demand relationship, it may be necessary to decrease the shipping percentage requirements for pool supply plants as proposed to provide for the efficient and economic marketing of milk during the months of April through August 1999.

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: April 14, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–9850 Filed 4–16–99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN–99–002]

1999 Proposed Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This adjustment is required by this regulation on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

DATES: Comments must be received on or before May 19, 1999.

ADDRESSES: Comments may be mailed to USDA, AMS Cotton Program, STOP 0224, 1400 Independence Avenue, SW, Washington, DC 20250–0224. All comments received will be available for public inspection at this address during the hours 8:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Whitney Rick, (202) 720–2259.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be ''not significant'' for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This proposed rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the 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, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 16,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This proposed rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This proposed rule would lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be lowered, the decrease is small and will not significantly affect small businesses.

The current assessment on imported cotton is $0.011850 per kilogram of imported cotton. The proposed assessment is $0.011397, a decrease of $0.000453 or a 3.8 percent decrease from the current assessment. From January through December 1998 approximately $20.9 million was collected at the $0.011850 per kilogram