

(6) Subtract the Class III value of the milk at the previous month's protein, other milk solids, and butterfat prices;

8. Section 1124.61 is amended by revising the section heading, introductory text, and paragraphs (a), (d) and (e) to read as follows:

§ 1124.61 Producer price differential.

A producer price differential per hundredweight of milk for each month shall be computed by the market administrator as follows:

(a) Combine into one total for all handlers:
 (1) The values computed pursuant to § 1124.60 (a) through (c) and (g) through (n) for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to § 1124.71 for the preceding month; and

(2) Add the values computed pursuant to § 1124.60 (d), (e) and (f); and subtract the values obtained by multiplying the handlers' total pounds of protein and total pounds of other solids contained in such milk by their respective prices;

(d) Divide the resulting amount by the sum, for all handlers, of the total hundredweight of producer milk and the total hundredweight for which a value is computed pursuant to § 1124.60(k); and

(e) Subtract not less than 4 cents per hundredweight nor more than 5 cents per hundredweight. The result shall be the producer price differential.

9. Section 1124.62 is removed, and Section 1124.63 is redesignated as Section 1124.62 and revised, including the section heading to read as follows:

§ 1124.62 Announcement of the producer price differential and a statistical uniform price.

On or before the 14th day after the end of each month, the market administrator shall announce the following prices and information:

- (a) The producer price differential;
- (b) The protein price;
- (c) The other solids price;
- (d) The butterfat price;
- (e) The average protein and other solids content of producer milk; and
- (f) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

10. Section 1124.71 is amended by revising paragraph (a)(1), the reference "§ 1124.73(a)(2) (i), (ii), and (iii);" in paragraph (b)(1) to "§ 1124.73(a)(2) (ii) through (iv);" and paragraph (b)(3) to read as follows:

§ 1124.71 Payments to the producer-settlement fund.

* * * * *

(1) The total handler's value of milk for such month as determined pursuant to § 1124.60; and

* * * * *

(3) The value at the producer price differential adjusted for the location of the plant(s) from which received (not to be less than zero) with respect to the total hundredweight of skim milk and butterfat in other source milk for which a value was computed or such handler pursuant to § 1124.60(k).

* * * * *

11. Section 1124.73 is amended by revising paragraphs (a)(2) (ii) through (vi), (c) introductory text, (c)(1), the reference "paragraph (a)(2) (i) through (iii) of this section" in paragraphs (c)(2) and (d)(2) to "paragraph (a)(2) (i) through (iv) of this section", (f)(2), and adding paragraph (a)(2)(vii) to read as follows:

§ 1124.73 Payments to producers and to cooperative associations.

* * * * *

- (a) * * *
- (2) * * *
- (ii) Add the amount that results from multiplying the protein price for the month by the total pounds of protein in the milk received from the producer;
- (iii) Add the amount that results from multiplying the other solids price for the month by the total pounds of other solids in the milk received from the producer;
- (iv) Add the amount that results from multiplying the total hundredweight of milk received from the producer by the producer price differential for the month as adjusted pursuant to § 1124.74(a);
- (v) Subtract payments made to the producer pursuant to paragraph (a)(1) of this section;
- (vi) Subtract proper deductions authorized in writing by the producer; and
- (vii) Subtract any deduction required pursuant to § 1124.86 or by statute; and

* * * * *

(c) Each handler shall pay to each cooperative association which operates a pool plant, or to the cooperative's duly authorized agent, for butterfat, protein and other solids received from such plant in the form of fluid milk products as follows:

(1) On or before the second day prior to the date specified in paragraph (a)(1) of this section, for butterfat, protein, and other milk solids received during the

first 15 days of the month at not less than the butterfat, protein, and other milk solids prices, respectively, for the preceding month; and

* * * * *

(2) The total pounds of milk delivered by the producer, the pounds of butterfat, protein and other solids contained therein, and, unless previously provided, the pounds of milk in each delivery;

* * * * *

§ 1124.74 [Amended]

12. Section 1124.74(c) is amended by revising, in two locations, the phrase "weighted average differential price" to "producer price differential".

§ 1124.75 [Amended]

13. Section 1124.75 is amended by adding the phrase "or statistical uniform price" after the words "estimated uniform price" in the second sentence of paragraph (a)(1)(i), and by revising the phrase "estimated uniform price" in the first sentence of paragraph (b)(4) to "statistical uniform price".

§ 1124.85 [Amended]

14. Section 1124.85 is amended by revising the reference "§ 1124.60 (h) and (j)" in paragraph (b) to "§ 1124.60 (i) and (k)".

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy; Sale of Unguaranteed Portion of Loan

AGENCY: Small Business Administration.
ACTION: Advance notice of proposed rulemaking.

SUMMARY: Pursuant to Section 7(a) of the Small Business Act (Act) 15 U.S.C. 636(a), the Small Business Administration (SBA) guarantees up to 90 percent of certain loans made by banks or other lending institutions. We are soliciting comments on how to proceed with a proposed rule which would permit participating lenders to transfer, under specific conditions, the unguaranteed portions of these loans.
DATES: Comments must be received on or before December 30, 1996.

ADDRESSES: Mail comments to: John Cox, Associate Administrator for Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW, Washington, D.C. 20416, Room 8200.

FOR FURTHER INFORMATION CONTACT: John Cox, AA/Financial Assistance, (202) 205-6490.

SUPPLEMENTARY INFORMATION:

Background

Section 7(a) of the Act authorizes SBA to guarantee loans made by banks or other lending institutions. Since Section 7(a) limits the amount of the SBA guarantee, each loan has an unguaranteed portion. The specific statutory provision under which the loan is made determines the size of the unguaranteed portion.

By limiting the SBA guarantee, Congress intended lenders to retain a tangible economic interest sufficient to make sure they are diligent in making, servicing and liquidating loans. This tangible economic interest must be reasonably commensurate with the unguaranteed portion of such loans.

In most instances, SBA requires lenders to retain at least a part of the unguaranteed portion of each guaranteed loan. Under prescribed procedures, it will allow the transfer by some lenders of the unguaranteed portions of loans and the pledge by other lenders of the notes evidencing SBA guaranteed loans. In these instances, it allows the transfer or pledge with prior written consent to facilitate financing transactions beneficial to those lenders. (See 13 CFR S 120.420 and paragraph 12 (a) of Blanket Guaranty Agreements, SBA Form 750)

SBA's regulations currently permit only nondepository lenders to transfer the entire unguaranteed portions of SBA guaranteed loans for financing purposes. Section 103(e) of the recently enacted Small Business Program Improvement Act of 1996, P.L. 104-208, requires that SBA now either promulgate a regulation that applies uniformly to both depository and nondepository lenders or prohibit the practice with respect to nondepository lenders after March 31, 1997. Since we prefer to issue a uniform rule, we propose to revise our regulations to give all SBA lenders clear guidance on when and how they can transfer or pledge the unguaranteed portion of SBA loans.

SBA's Present Regulations

Currently our regulations on the sale of the unguaranteed portions of SBA guaranteed loans apply only to nondepository lenders. Nondepository lenders include:

(1) Small Business Lending Companies, which are licensed and regulated by SBA (See 13 CFR S 120.470),

(2) Business and Industrial Development Companies, which are chartered under state statutes,

(3) Insurance companies, and

(4) Other nondepository lenders with which SBA has entered into blanket guaranty agreements.

SBA can deny a lender's request to sell unguaranteed portions if it does not comply with SBA lending regulations and/or any other applicable State or Federal statutory or regulatory requirement.

Although the necessary documents for such financing arrangements will differ from case to case, we try to accommodate any reasonable proposal. However, lenders must satisfy certain conditions before we will consent, in writing, to any proposal.

Under the regulations, only a party agreeable to us is permitted to hold the notes evidencing SBA guaranteed loans. Normally, we require the lender or our agent to retain custody of such notes.

As a pre-condition to our written consent to any financing transaction, SBA requires that all parties execute a written agreement protecting SBA's interest as the guarantor of the major portion of the notes. Any such agreement must:

(1) Indicate how the notes will be held and safeguarded,

(2) Acknowledge our interest in the notes, and

(3) Reflect the agreement of all relevant parties to uphold the Small Business Act, the regulations promulgated thereunder, and our guarantee contract.

We have developed a format for the agreement for parties who want to proceed under the regulations.

Finally, under these regulations, we will only grant our prior written consent if participating lenders retain a tangible economic interest in the loans reasonably commensurate with the unguaranteed portions. In the case of a pledge, the lender must retain all of the economic interest in the actual unguaranteed portions. In the case of a transfer, a participating lender must show that it remains sufficiently at risk economically for the unguaranteed portion. The retained risk need not be met by retaining a reserve which equals the unguaranteed portions as long as the participating lender bears the ultimate risk of loss on the unguaranteed portions. The regulations cite a number of non-exclusive means which a lender may use, singly or in combination, to demonstrate risk retention.

Solicitation of Comments

We are asking for the public to comment on how to implement the

Congressional mandate in Section 103(e) of Public Law 104-208. We are not wedded to our present regulations or procedures, but recognize the need for uniformity and predictability to accommodate both the expected demand from our lenders and the need to protect the safety and soundness of our guaranteed loan program. Commenters are requested to address some or all of the following questions:

1. How should lenders demonstrate a retained tangible economic interest in a guaranteed loan? Should lenders be required to retain an unguaranteed portion and/or reserve within the financing transactions? What level of retention and/or reserve is adequate to protect the safety and soundness of SBA's business loan program?

2. Should we permit financing transactions on a periodic scheduled basis or should lenders be permitted to submit transactions whenever they want?

3. Should we permit multiple lenders to "pool" transactions in one multi-party transaction? If so, how should this be regulated?

4. Should we use third party resources to help process the contemplated transactions? If so, what types of third parties? Who should bear the costs associated with using third parties?

Although commenters should not restrict their comments to the above issues, responses geared to these issues will be helpful.

Dated: November 22, 1996.

Ginger Ehn Lew,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-204-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Industrie Model A320, A321, A330, and A340 Series Airplanes Equipped With Westland-Sitec Fire Shutoff Valves Having Part Number EO3000

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