

# 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 1001

[Docket No. AO-14-A70; DA-02-01]

#### Milk in the Northeast Marketing Area; Supplemental Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

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

**ACTION:** Proposed rule; Supplemental notice of public hearing on proposed rulemaking.

**SUMMARY:** This document contains an additional proposal to be considered at a previously scheduled hearing to consider proposals that would amend certain pooling and related provisions of the Northeast Federal milk marketing order. The additional proposal seeks to amend the unit pooling provision by specifying that a secondary unit-pooled plant must be located within the marketing area and process at least 60 percent of total producer milk receipts as Class I or Class II products.

**DATES:** The hearing will convene at 8:30 a.m. on Tuesday, September 10, 2002.

**ADDRESSES:** The hearing will be held at the Embassy Suites Hotel Alexandria, 1900 Diagonal Road, Alexandria, VA 22314 Telephone: 703-236-5900.

**FOR FURTHER INFORMATION CONTACT:** Gino Tosi, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Programs, Room 2968, 1400 Independence Avenue, SW., STOP 0231, Washington, DC 20250-0231, (202) 690-1366, e-mail: [gino.tosi@usda.gov](mailto:gino.tosi@usda.gov).

Persons requiring a sign language interpreter or other special accommodations should contact Erik F. Rasmussen, Market Administrator, at 617-542-8966; e-mail: [maboston@fedmilk1.com](mailto:maboston@fedmilk1.com) prior to the hearing.

**SUPPLEMENTARY INFORMATION:** This administrative action is governed by the

provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12866.

This notice is supplemental to the notice of hearing which was issued on July 26, 2002, and published in the **Federal Register** on August 1, 2002 (67 FR 49887).

Notice is hereby given that the aforesaid hearing will be held as scheduled at the Embassy Suites Hotel Alexandria, beginning at 8:30 a.m., on September 10, 2002, with respect to proposed amendments previously announced and to the additional proposed amendment to the tentative marketing agreement and to the order regulating the handling of milk in the Northeast marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the previously announced proposed amendments, and to the additional proposed amendment hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to Proposals 1 through 14.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than \$750,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the

probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The previously proposed amendments and the additional amendment to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the previously proposed amendments and the additional amendment would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing a petition with the Department 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 Department 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 Department'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.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with (4) copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

#### List of Subjects in 7 CFR Part 1001

Milk marketing orders.

#### PART 1001—[Amended]

The authority citation for 7 CFR part 1001 continues to read as follows:

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

The additional proposed amendment, as set forth below, has not received the approval of the Department.

*Submitted by New York State Dairy Foods, Inc.:*

Proposal No. 14:

1. Amend § 1001.7 by revising paragraphs (e)(1) and (e)(2), to read as follows:

**§ 1001.7 Pool Plant.**

\* \* \* \* \*

(e) \* \* \*

(1) At least one of the plants in the unit qualifies as a pool distributing plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process at least 60 percent of monthly receipts of producer milk, including Cooperative 9(c) milk, only as Class I or Class II products and must be located in the Northeast marketing area, as defined in § 1001.2, in a pricing zone providing the same or a lower Class I price than the price applicable at the distributing plant(s) included in the unit; and

\* \* \* \* \*

Copies of this supplemental notice of hearing and the order may be procured from the Market Administrator for the Northeast Marketing Area, or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture  
Office of the Administrator, Agricultural Marketing Service  
Office of the General Counsel  
Dairy Programs, Agricultural Marketing Service (Washington office) and the Office of the Northeast Market Administrator

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: August 14, 2002.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 02-20955 Filed 8-14-02; 11:38 am]

**BILLING CODE 3410-02-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2002-NM-67-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the superseding of an existing airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes, that currently requires an inspection of the parking brake operated valve (PBOV) of the main landing gear to identify the part and serial numbers, and follow-on actions if necessary. That AD also provides for optional terminating action for the requirements of the AD. This action would require accomplishment of the previously optional terminating action. The actions specified by the proposed AD are intended to prevent leakage of the PBOV and consequent failure of the "blue" hydraulic system and alternate parking brake and emergency braking systems, which could affect elements of the hydraulics for flaps, stabilizer, certain spoilers, elevator, rudder, and aileron. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by September 16, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-67-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: [9-anm-nprmcomment@faa.gov](mailto:9-anm-nprmcomment@faa.gov). Comments sent via fax or the Internet must contain "Docket No. 2002-NM-67-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056, telephone (425) 227-2125; fax (425) 227-1149.

**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 action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002-NM-67-AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-67-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.