

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-96-03]

Milk in the Central Arizona Marketing Area; 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 to suspend certain provisions of the Central Arizona Federal milk marketing order for an indefinite period beginning April 1, 1996. The proposed suspension would continue a suspension which expires on March 31, 1996, that eliminates the requirement that a cooperative association ship at least 50 percent of its receipts to other handler pool plants to maintain pool status of a manufacturing plant operated by the cooperative. United Dairymen of Arizona, a cooperative association that represents nearly all of the producers who supply milk to the market, has requested continuation of the suspension. The cooperative asserts that the suspension is necessary to prevent uneconomical and inefficient movements of milk.

DATES: Comments are due no later than March 20, 1996.

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.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C.

601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule 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.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, 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 file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. 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.

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, 1996:

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 7th day after publication of this notice in the Federal Register. 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 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, 1996. 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 is threatened if the suspension is not continued. UDA states that the same marketing conditions that warranted the

suspension last year 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, 1996, 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: March 7, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96-5933 Filed 3-12-96; 8:45 am]

BILLING CODE 3410-02-P

Commodity Credit Corporation

7 CFR Part 1427

RIN 0506-AE51

Upland Cotton User Marketing Certificate Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations to set the payment rate for exporters under the user marketing certificate program on the date it is determined by the Commodity Credit Corporation the cotton is shipped. The new method for rate-setting would be effective on the day the final rule is published. Comments are requested on this change.

DATES: Comments on the proposed rule, as well as comments on alternatives to this proposal, must be received on or before April 12, 1996 to be assured of consideration.

ADDRESSES: Submit comments on the proposed rule to: Director, Fibers Analysis Division (FAD), Farm Service Agency (FSA), U.S. Department of Agriculture (USDA), room 3758-S, Ag Code 0515, P.O. Box 2415, Washington, DC 20013-2415. Comments on the information collection must be sent to the Office of Management and Budget (OMB) at the address listed in the

Paperwork Reduction Act section of this preamble. A copy of these comments may also be sent to the Department representative at the address shown following the OMB address.

FOR FURTHER INFORMATION CONTACT: Wayne Bjorlie, Director, FAD, FSA, USDA, room 3758-S, Ag Code 0515, P.O. Box 2415, Washington, DC 20013-2415 or call (202) 720-6734. A cost benefit analysis of this rule is available on request.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The titles and numbers of the Federal Assistance Programs, as found in the catalog of Federal Domestic Assistance, to which this proposed rule applies are: Commodity Loans and Purchases—10.051 and Cotton Production Stabilization—10.052.

Executive Order 12778

This rule has been reviewed in accordance with Executive Order 12778. The provisions of the rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Background

Since the user marketing certificate (Step 2) program began, the payment rate for exporters has been the subject of discussion and controversy, particularly with regard to the bunching of export sales registrations during a week following a period of zero payment rates or a week when the continuing availability of the payments is particularly uncertain. All segments of the cotton industry have expressed interest in making changes. Whereas Step 2 may have been conceived as a program to provide regular payments to exporters based on actual sales made according to historical timing patterns, in reality the existence of the payments has changed the timing of the sales. Bunching of registrations refers to the practice of registering large volumes of cotton export sales with CCC whenever there is a reasonable expectation that such action will capture a larger than average payment rate or a rate which may be available for only a short time. Bunching has occurred because the payment rate has been fixed for the exporter as of the date the sale is registered with CCC. The proposed rule would amend the regulations to set the payment rate for exporters under the user marketing certificate program on the date on which it is determined by CCC that the cotton is shipped, rather than the date on which the sale is registered with CCC. Thus, there would no longer be an incentive to sell large volumes of cotton in advance solely in order to register the sales with CCC and capture a larger payment rate. Under the proposed rule, the rate could not be captured in that way.

Regulations covering payment rate determinations for cotton contracted by exporters for shipment before the final rule is published in the Federal Register and for cotton consumed by domestic users are not changed by this proposed rule. Payment rates for such cotton will be determined in accordance with existing regulations and under the terms and conditions of the Upland Cotton Domestic User/Exporter Agreement, CCC-1045, (4-15-94), Revision 2 (existing agreement), through the day the final rule is published in the Federal Register. Publication of the final rule in the Federal Register and the effective date of the revised agreement will be coordinated so that the existing agreement will remain in effect until the revised agreement goes into effect. To continue to participate in the Step 2 program, exporters and domestic users must sign and return the revised agreement to CCC.