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NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1361

Rulemaking Procedures

AGENCY: Northeast Dairy Compact Commission.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the ex parte communication provision of the Commission's rulemaking procedures. The amended rule allows Commission members to discuss the merits of a pending rulemaking proceeding with each other after the close of the comment period. The existing prohibition against ex parte communications between Commission members or Commission staff and interested parties or their representatives, at any time during the rulemaking proceeding, remains in full force with some clarifying amendments to the language of the rule.

DATES: Interim rule effective April 14, 1999. Sworn and notarized written testimony, comments and exhibits may be submitted until 5:00 p.m. on May 14, 1999.

ADDRESSES: Mail, or deliver, sworn and notarized testimony, comments and exhibits to: Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229-1941, or by facsimile at (802) 229-2028.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Dairy Compact Commission ("Commission") was established under authority of the Northeast Interstate Dairy Compact

("Compact"). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93-320; Maine—Pub. L. 89-437, as amended, Pub. L. 93-274; Massachusetts—Pub. L. 93-370; New Hampshire—Pub. L. 93-336; Rhode Island—Pub. L. 93-106; Vermont—Pub. L. 93-57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104-127 (FAIR Act), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact.

Pursuant to its rulemaking authority under Article V, Section 11 of the Compact, the Commission concluded an informal rulemaking process and voted to adopt a compact over-order price regulation on May 30, 1997.¹ The Commission subsequently amended and extended the compact over-order price regulation.² In 1998, the Commission further amended specific provisions of the over-order price regulation.³ The current compact over-order price regulation is codified at 7 CFR Chapter XIII.

On July 14, 1998, the Commission published an interim procedural rule to establish regulations governing the administrative rulemaking procedures for the Commission, as authorized by Section 11 of the Compact. That rule was based on rulemaking procedures originally adopted by the Commission on November 21, 1996 and incorporated in the Commission's Bylaws.⁴

The Commission determines that two amendments to the current provision prohibiting ex parte communications are warranted. First, the Commission amends subsections (a) and (b) of § 1361.11 to substitute clarifying language. The Commission deletes reference to a "hearing" and substitutes the phrase "rulemaking proceeding," in both subsections (a) and (b). In only subsection (a), the Commission also deletes the phrase "discuss ex parte" and substitutes the phrase "communicate, either directly or indirectly, in connection with" the merits of the rulemaking proceeding.

The prohibition against any ex parte communication between Commission members or Commission staff and interested persons or their representatives, during the course of the rulemaking proceeding, remains in full force.

Secondly, the Commission amends § 1361.11(b) to adjust the time period during which the Commission members are prohibited from discussing the merits of the pending rulemaking proceeding with each other. The current provision only allows Commission members to discuss the merits of the rulemaking during the deliberative meeting conducted pursuant to 7 CFR § 1361.8. The amended rule permits Commission members to discuss the issues following the close of the comment period, after the public record is complete. The prohibition against discussing the merits of the proceeding between the date of publication of the official notice of the rulemaking proceeding and the close of the post-hearing comment period remains in force. This amendment will permit the Commission's Committee on Regulations and Rulemaking, as well as state delegations and individual Commissioners, to prepare for the Commission's deliberative meeting held pursuant to § 1361.8.

Accordingly, the Commission amends the current procedural rule to be effective upon publication. The amended rule will apply only to those rulemaking proceedings initiated by publication of official notice after the effective date of the rule.

Public Participation in Rulemaking Proceedings

The Commission seeks and encourages comments on these amendments to the Commission's rulemaking procedures. The Commission continues to benefit from the valuable insight and active participation of all segments of the affected community, including consumers, processors and producers in the development and administration of the over-order price regulation and welcomes comments from milk handlers and other interested persons.

Request for Written Comments

Any person may participate in the rulemaking proceeding by submitting written comments or exhibits to the Commission. Comments and exhibits

¹ 62 FR 29626 (May 30, 1997)

² 62 FR 62810 (Nov. 25, 1997)

³ 63 FR 10104 (Feb. 27, 1998); 63 FR 46385 (Sept. 1, 1998); and 63 FR 65517 (Nov. 27, 1998).

⁴ 63 FR 37755 (July 14, 1998).

may be submitted at any time before 5:00 p.m. on May 14, 1999.

Please note: Comments and exhibits will be made part of the record of the rulemaking proceeding only if they identify the author's name, address and occupation, and if they include a sworn and notarized statement indicating that the comment and/or exhibit is presented based upon the author's personal knowledge and belief. Facsimile copies will be accepted up until the 5:00 p.m. deadline, but the original must then be sent by ordinary mail.

List of Subjects in 7 CFR Part 1361

Administrative practice and procedure, Rulemaking, Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission amends 7 CFR Part 1361 as follows:

PART 1361—RULEMAKING PROCEDURES

1. The authority citation for part 1361 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. Section 1361.11 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1361.11 Ex parte communications.

(a) Following notice of a rulemaking proceeding, pursuant to § 1361.3, and prior to the conclusion of a producer referendum, or the final decision of the Commission, whichever is later, no Compact Commission member or Commission staff person shall communicate, either directly or indirectly, in connection with the merits of the rulemaking proceeding with any person having an interest in the proceeding or with any representative of such person.

(b) Following notice of a rulemaking proceeding, pursuant to § 1361.3, and prior to the close of the comment period, pursuant to § 1361.7, Compact Commission members shall not discuss among themselves the merits of the rulemaking proceeding.

* * * * *

Dated: April 8, 1999.

Kenneth M. Becker,
Executive Director.

[FR Doc. 99-9273 Filed 4-13-99; 8:45 am]

BILLING CODE 1650-01-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 115

Surety Bond Guarantees

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This document amends 13 CFR 115.31(a)(2) to conform it to Section 411(c)(3)(B) of the Small Business Investment Act (the "Act"), as amended by Section 604(d) of the Small Business Reauthorization Act of 1997 (the "1997 Reauthorization Act"). The 1997 Reauthorization Act added bonds issued on behalf of qualified HUBZone small business concerns to those receiving a 90 percent guarantee under the Surety Bond Guarantee Program. Since this rule only implements the cited statute, it is published in final form without opportunity to comment.

EFFECTIVE DATE: This rule is effective May 14, 1999.

FOR FURTHER INFORMATION CONTACT: Robert J. Moffitt, Associate Administrator, Office of Surety Guarantees, (202) 205-6540.

SUPPLEMENTARY INFORMATION: This amendment only implements the cited statute to include bonds issued by a Prior Approval Surety on behalf of qualified HUBZone small business concerns among those to be covered by a 90 percent guarantee from SBA. The present regulation already provides a 90 percent guarantee for bonds issued on behalf of small disadvantaged concerns.

This change would affect only qualified HUBZone small business concerns that are already eligible to participate in the Surety Bond Guarantee Program. Publishing a proposed rule for notice and comment is unnecessary because the change to the regulation is minimal and SBA has no discretion.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601-612.) and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this is not a significant regulatory action under E.O. 12866 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601-612.) This rule only affects those HUBZone small business concerns who may want to participate in SBA's Surety Bond Guarantee Program.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule contains no new

reporting or record keeping requirements.

For purposes of E.O. 12612, SBA certifies that this rule would not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of E.O. 12778, SBA certifies that this rule is drafted, to the extent practicable, under the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 115

Surety bond guarantees.

For the reasons stated in the preamble, the Small Business Administration amends 13 CFR part 115 as follows:

PART 115—SURETY BOND GUARANTEES

1. The authority citation for part 115 is revised to read as follows:

Authority: 5 U.S.C. app 3; 15 U.S.C. 687b, 687c, 694a, 694b; Pub. L. 101-574, 104 Stat. 2823 (1990); Pub. L. 105-135.

§ 115.31 [Amended]

2. Amend § 115.31 to revise paragraph (a)(2) to read as follows:

(a) * * *

(2) The bond was issued on behalf of a small business owned and controlled by socially and economically disadvantaged individuals or on behalf of a qualified HUBZone small business concern.

* * * * *

Dated: March 31, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99-9268 Filed 4-13-99; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-315-AD; Amendment 39-11128; AD 99-08-20]

RIN 2120-AA64

Airworthiness Directives; Lockheed Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Lockheed Model L-1011-385 series airplanes, that currently requires a one-time inspection to detect cracking of the bulkhead at fuselage