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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1079

[DA-99-02]

#### Milk in the Iowa Marketing Area

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

**ACTION:** Final rule.

**SUMMARY:** This document revises certain sections of the Iowa Federal milk order for the months of April, May, and June 1999 in regard to the percentage of a supply plant's receipts that must be delivered to fluid milk plants in order to qualify the supply plant for pooling. A pool supply plant regulated under the Iowa order (Order 79) requested that the percentages for the months of April through August 1999 be reduced by 10 percentage points, from 20 percent to 10 percent. In a separate action, the period of time for commenting on the proposed revision for the months of June, July and August 1999 is being reopened and extended.

#### EFFECTIVE DATES:

1. The amendment numbered 2 is effective April 1, 1999, through May 31, 1999.
2. The amendment numbered 3 is effective June 1, 1999, through June 30, 1999.

#### 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.brenner@usda.gov](mailto:connie.brenner@usda.gov).

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding:

Notice of Proposed Rule: Issued April 14, 1999; published April 19, 1999 (64 FR 19071).

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

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

The Agricultural Marketing Agreement Act of 1937 (the "Act"), 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 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.

The reduction of the required supply plant shipping percentage by 10 percentage points for the months of April and May and by 5 percentage points for the month of June 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.

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the provisions of § 1079.7(b)(1) of the Iowa Federal milk order.

#### Issuance of Notice of Proposed Revision

Notice of proposed rulemaking was published in the **Federal Register** (64 FR 19071) concerning a proposed reduction in 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 order. The revisions were proposed to be effective for the months of April through August 1999. The public was afforded the opportunity to comment on the proposed reduction by submitting written data, views and arguments by April 26, 1999.

One comment partly supporting the proposed revision was received.

## Statement of Consideration

This document revises certain provisions of the Iowa Federal milk order in regard to the percentage of a supply plant's receipts of milk that must be delivered to fluid milk plants in order to qualify the supply plant for pooling. A proposal to reduce the percentages by 10 percentage points from 20 percent to 10 percent for the months of April through August 1999 was requested by Beatrice Cheese, Inc. (Beatrice), a proprietary manufacturer of dairy products in Fredericksburg, Iowa, regulated under Order 79 as a pool supply plant. Beatrice states that the decrease is warranted due to the fact that raw milk supplies from outside of Iowa's traditional procurement area result in a supply of milk for the market that exceeds 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 further contends that the reduction would allow the milk of dairymen who historically have supplied the market to continue to be pooled under the Federal order and would also prevent uneconomic milk movements.

Comments from Anderson-Erickson Dairy Company, a pool distributing plant regulated under Order 79, did not oppose the proposed 10-percentage point reduction for the months of April and May, but proposed a reduction of no more than 5 percentage points for June and opposed immediate action to reduce the percentage for the months of July and August 1999. According to Anderson-Erickson, the milk supply situation in Iowa is volatile and the summer could likely lead to a marketing scenario different from the one posited by Beatrice.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that the supply plant shipping percentage requirements for pool supply plants § 1079.7(b) should be decreased 10 percentage points during the months of April and May 1999, and 5 percentage points during June 1999. The lesser reduction for the month of June reflects historical production patterns. The volume of milk associated with the Iowa market generally starts to decline for the month of June and declines even further during the months of July and August. In a separate document published in the **Federal Register**, the time for filing comments regarding the proposed revision of the shipping plant percentage under Order 79 is being reopened and extended until

June 14. This further opportunity to submit comments should be sufficient to determine whether a further reduction in the pool supply plant shipping percentage of 5 percent is appropriate for June and whether any reduction is necessary for the months of July and August 1999.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of April 1999 through June 1999;

(b) This revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision. One comment supporting the revision was received.

Therefore, good cause exists for making this temporary revision effective less than 30 days from the date of publication in the **Federal Register**.

## List of Subjects in 7 CFR Part 1079

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR Part 1079 is amended as follows:

## PART 1079—MILK IN THE IOWA MARKETING AREA

1. The authority for 7 CFR Part 1079 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

### § 1079.7 [Amended]

2. In § 1079.7, paragraph (b), the introductory text is amended by revising the words "20 percent" to read "10 percent" effective April 1, 1999, through May 31, 1999.

3. In § 1079.7, paragraph (b), the introductory text is amended by revising the words "20 percent" to read "15 percent" effective June 1, 1999, through June 30, 1999.

Dated: May 5, 1999.

**Richard M. McKee,**

*Deputy Administrator, Dairy Programs.*

[FR Doc. 99–11767 Filed 5–7–99; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97–NM–100–AD; Amendment 39–11162; AD 99–10–09]

RIN 2120–AA64

### Airworthiness Directives; Boeing Model 747–100, 747–200, and 747–SP Series Airplanes and Military Type E–4B Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, –200, and 747–SP series airplanes and military type E–4B airplanes, that requires repetitive inspections to detect cracking of the wing front spar web, and repair of cracked structure. This amendment also provides for optional terminating action for the repetitive inspection requirements. This amendment is prompted by reports indicating that fatigue cracks were found on the aft surface of the wing front spar web. The actions specified by this AD are intended to detect and correct such fatigue cracking, which could result in a fuel leak, and consequent increased risk of a fire.

**DATES:** Effective June 15, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of June 15, 1999.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Tamara L. Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing