

In a marketing year (August 1–July 31) that a reserve program is implemented, the Board recommends the initial percentages in September and has the option of recommending an increase in the free and export percentages and a decrease in the reserve percentage later in the marketing year. If the Department concurs with the Board's recommendation, the recommended percentages may be established or modified. Under current order requirements, the reserve percentage may be decreased and free percentage increased if the Board makes a recommendation on or before February 15. Section 984.49(b)(1) establishes a deadline of February 15 for the Board to recommend to the Secretary an increase in the free percentage and a decrease in the reserve percentage. On February 10, 1995, the Board unanimously recommended suspension of that deadline. The proposed rule would suspend the phrase "On or before February 15 of the marketing year," in section 984.49(b)(1) and would authorize the Board to recommend an increase in the free percentage and a decrease in the reserve percentage at any time during the marketing year, which ends on July 31.

In the past, many export markets were undeveloped and the domestic market provided better returns than export markets. The reserve percentage was used as a tool to keep the domestic walnut market from being oversupplied and the export percentage was used as a tool to place an orderly flow of California walnuts into the export market at prices that were competitive with foreign walnuts. Even though the free walnuts were allowed to be shipped to export markets, free walnuts were not price competitive with walnuts from other countries and consequently were not diverted to export markets. Under former marketing conditions, sufficient information relating to the domestic market was available prior to February 15 so that the Board could make an appropriate recommendation for final free and reserve percentages.

Under present marketing conditions, walnut export markets are well established and have returns equal to or higher than those received in the domestic market. As a result, the Board could recommend setting an export percentage of 0 percent which would preclude the shipment of reserve walnuts to export markets. The export market would then be supplied with only free walnuts. By setting a reserve percentage and keeping the export percentage at 0 percent, the Board could remove a quantity of walnuts in excess

of domestic and export market demands.

When large shipments of reserve walnuts were exported, the February 15 deadline for recommending a decrease in the reserve gave handlers approximately five months to export the remainder of their reserve after the final reserve percentage was known. Since exports have now become a viable market for free walnuts, the Board may need more flexibility to consider later data on free shipments to revise its estimate of trade demand. The Board may also need more flexibility to consider the July forecast of the next crop to decide if the desirable carryout should be increased to supplement a short crop.

In addition, the order requires handlers to file monthly shipment reports that are due on the fifth day of the following month. Each additional monthly report the Board receives from handlers after the February 15 deadline, gives the Board a more accurate picture of the levels of shipments of walnuts for the current marketing year. More information is also available at that time on the foreign walnut crop, the pecan supply which directly, competes with walnuts, exchange rates, and foreign and domestic economic conditions. This information would allow the Board to better estimate the current and prospective domestic and export demand and supply conditions for California walnuts. Finally, later in the marketing year, the Board can better estimate the amount of the current crop of walnuts that should be carried over to the next marketing year. By allowing decisions to be made later in the season on a reserve program, the industry can better evaluate marketing conditions.

The Board estimates that sufficient information would be available by early June, but marketing conditions may cause the Board to wait longer before making a final recommendation on the free and reserve percentages. The suspension of the February 15 deadline would allow the Board more flexibility in dealing with the dynamic marketing conditions of the California walnut industry and in turn provide for more orderly marketing of walnuts.

Based on available information, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons an opportunity to comment on this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be suspended in part as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 984.49 [Suspended in part]

2. In § 984.49(b)(1), the words "On or before February 15 of the marketing year," are suspended.

Dated: May 26, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–13509 Filed 6–1–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1126

[DA–95–16]

Milk in the Texas Marketing Area; Notice of 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 that would continue the suspension of segments of the pool plant and producer milk definitions of the Texas order for a two-year period. Associated Milk Producers, Inc., a cooperative association that represents producers who supply milk to the market, has requested the continuation of the suspension. The cooperative asserts that continuation of this suspension is necessary to insure that dairy farmers who have historically supplied the Texas market will continue to have their milk priced under the Texas order without incurring costly and inefficient movements of milk.

DATES: Comments are due no later than July 3, 1995.

ADDRESSES: Comments (two copies) should be sent to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9368.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, 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 will 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 suspension of rules 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 this 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 provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting 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 date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Act, the suspension of the following provisions of the order regulating the handling of milk in the Texas marketing area is being considered for the months of August 1, 1995, through July 31, 1997.

1. In § 1126.7(d) introductory text, the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

2. In § 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from

pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

3. In § 1126.13(e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

4. In § 1126.13, paragraph (e)(2).

5. In § 1126.13(e)(3), the sentence "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;".

All persons who desire to submit written data, views or arguments about the proposed suspension should send two copies to USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 30th day after publication of this notice in the **Federal Register**.

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 suspension would continue the current suspension of segments of the pool plant and producer milk definitions under the Texas order. This proposed suspension would be in effect from August 1995 through July 1997. The current suspension will expire July 31, 1995. The proposed action would continue the suspension of: (1) The 60 percent delivery standard for pool plants operated by cooperatives; (2) the diversion limitation applicable to cooperative associations; (3) the limits on the amount of milk that a pool plant operator may divert to nonpool plants; (4) the shipping standards that must be met by supply plants to be pooled under the order; and (5) the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order permits a cooperative association plant located in the marketing area to be a pool plant, if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool

distributing plants during the month. In addition, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received during the month at handlers' pool plants. The order also provides that the operator of a pool plant may divert to nonpool plants not more than one-third of the milk that is physically received during the month at the handler's pool plant. The proposed action would continue to inactivate the 60 percent delivery standard for plants operated by a cooperative association and remove the diversion limitations applicable to a cooperative association and to the operator of a pool plant.

The order also provides for regulating a supply plant each month in which it ships a sufficient percentage of its receipts to distributing plants. The order provides for pooling a supply plant that ships 15 percent of its milk receipts during August and December and 50 percent of its receipts during September through November and January. A supply plant that is pooled during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. The requested action would continue the current suspension of these performance standards for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also specifies that the milk of each producer must be physically received at a pool plant in order to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for diversion eligibility. The proposed action would continue to suspend these requirements.

The continuation of the current suspension was requested by Associated Milk Producers, Inc., a cooperative association that represents a substantial number of dairy farmers who supply the Texas market. The cooperative stated that marketing conditions have not changed since the provisions were suspended in 1993 or since March 1995 when the suspension was expanded to include all of paragraph (e)(2), and therefore should be continued until restructuring of the order can be achieved through the formal rulemaking process.

The cooperative states that the continuation of the current suspension is necessary to insure that dairy farmers who have historically supplied the

Texas market will continue to have their milk priced under the Texas order. In addition they maintain that the suspension would continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

List of Subjects in 7 CFR Part 1126

Milk marketing orders.

The authority citation for 7 CFR Part 1126 continues to read as follows:

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

Dated: May 26, 1995.

Lon Hatamiya,

Administrator.

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7 CFR Part 1280

[No. LS-94-015]

Sheep and Wool Promotion, Research, Education, and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Sheep Promotion, Research, and Information Act of 1994 (Act), authorized the establishment of a national, industry-funded and -operated sheep and wool promotion, research, education, and information program. In response to an invitation published in the **Federal Register** to submit proposals for a sheep and wool promotion, research, education, and information order (Order), the Agricultural Marketing Service (AMS) received an entire industry proposal as well as five other partial proposals. With minor modifications, the full industry proposal and four of the partial proposals are set forth below for public comment. All comments will be considered before we issue a final rule establishing an Order.

Before an Order can become operational, a referendum must be conducted among sheep producers, sheep feeders, and importers of sheep and sheep products, except importers of raw wool. If sheep producers, feeders, and importers voting in the referendum approve the final Order, producers, feeders, and importers will be required to pay assessments, which would be used in a national program of sheep and wool promotion, research, consumer information, education, industry information, and producer information.

This rule also contains the certification and nomination procedures for the establishment of the National Sheep Promotion, Research, and Information Board (Board).

Additionally, please take notice that a public meeting will be held during the comment period to foster a better understanding of the intent and application of the proposed Order. The Secretary of Agriculture (Secretary) will consider the record of that meeting in the development of a final Order. All interested persons are invited to attend.

DATES: Written comments must be received by July 17, 1995. The meeting will convene at 9:00 a.m., eastern daylight time, on June 26, 1995.

ADDRESSES: Location of meeting: Room 3501, USDA South Building, 14th and Independence Avenue, SW., Washington, D.C.

COMMENTS: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch, Room 2606-S; Livestock and Seed Division, AMS-USDA; P.O. Box 96456; Washington, D.C. 20090-6456. Comments will be available for public inspection during regular business hours in Room 2606, South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250. All comments should reference the docket number and the date and page number of the issue of the **Federal Register**. Comments concerning the information collection requirements contained in this proposal should also be sent to the Office of Information and Regulatory Affairs; Office of Management and Budget (OMB); Washington, D.C. 20503. Attention: Desk Officer for Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720-1115.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Invitation to submit proposals—60 FR 381 (January 4, 1995).

Regulatory Impact Analysis

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that any person subject to the Order may file 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, and requesting a modification of the Order or an exemption from certain provisions or obligations of the Order. The petitioner will have the opportunity for a hearing on the petition. Thereafter the Secretary will issue a decision on the petition. The Act provides that the district courts of the United States in any district in which the petitioner resides or carries on business has jurisdiction to review a ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's decision. The petitioner must exhaust his administrative remedies before he can initiate any such proceeding in the district court.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Administrator of AMS has considered the economic impact of this proposed action on small entities.

The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

According to the January 27, 1995, issue of "Sheep and Goats," published by the U.S. Department of Agriculture's (Department) National Agricultural Statistics Service, there are approximately 87,350 operations with sheep in the United States, nearly all of which would be classified as small businesses under the criteria established by the Small Business Administration (13 CFR 121.601).

The proposed Order would require each person who makes payment to a sheep producer, feeder, or handler of sheep or sheep products to be a collecting person, and thus to collect the assessment from the sheep producer, feeder, or handler of sheep or sheep products. Any person who buys domestic live sheep or greasy wool for processing must collect and remit the assessment to the Board. Each person who processes or causes to be processed sheep or sheep products of that person's own production and markets the processed products will pay an assessment and remit the assessment to the Board. Any person who exports live sheep or greasy wool will be required to remit an assessment to the Board. Finally, each person who imports into the United States sheep, sheep products, wool, or products containing wool,