

# 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 Parts 1000 and 1033

[Doc. No. AMS-DA-08-0049; AO-166-A77; DA-08-06]

#### Milk in the Mideast Marketing Area; Order To Terminate Proceeding on Proposed Amendments to Marketing Agreement and Order

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

**ACTION:** Termination of proceeding.

**SUMMARY:** This action terminates a rulemaking proceeding that proposed to amend Class I prices for certain counties of the Mideast milk marketing area. Marketing conditions since the close of the hearing on the proposal have changed substantially, no longer warranting a change.

**DATES:** The rulemaking proceeding is terminated as of July 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Erin C. Taylor, Order Formulation and Enforcement, USDA/AMS/Dairy Programs, STOP 0231-Room 2971, 1400 Independence Avenue, SW., Washington, DC 20250-0231, (202) 720-7311, e-mail address: [erin.taylor@usda.gov](mailto:erin.taylor@usda.gov) mailto: [gino.tosi@usda.gov](mailto:gino.tosi@usda.gov).

**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 action terminates the rulemaking proceeding concerning Class I prices for the Mideast order. The proposal was considered at a public hearing held August 19-20, 2008. The Secretary issued a recommended decision on the proposed amendment on January 8, 2009, and it was published on January 14, 2009 (74 FR 1976).

### Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that the termination of this proceeding 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 \$750,000, 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 \$750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by a dairy farm operation, it should be an inclusive standard for most small dairy farms. 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.

During August 2008, the time of the hearing, there were 7,376 dairy farms pooled on the Mideast order. Of these, approximately 6,927 dairy farms (or 93.9 percent) were considered small businesses.

During August 2008, there were 53 handler operations associated with the Mideast order (27 fully regulated handlers, 9 partially regulated handlers, 2 producer-handlers and 15 exempt handlers). Of these, approximately 43 handlers (or 81 percent) were considered small businesses.

Minimum Class I prices are determined in all Federal milk marketing orders by adding a location specific differential, referred to as a "Class I differential," to the higher of an advance Class III and Class IV price announced by USDA. The proposed amendments sought to increase the Class I prices in the southern tier of counties of the Mideast marketing area. Minimum Class I prices charged to regulated handlers are applied uniformly to both large and small entities.

Because this action terminates the rulemaking proceeding without amending the Class I prices of the Mideast marketing order, the economic conditions of small entities remain unchanged. This action does not change reporting, record keeping, or other compliance requirements.

*Prior documents in this proceeding:* Notice of Hearing: Issued July 21, 2008; published July 24, 2008 (73 FR 43160).

*Recommended Decision:* Issued January 8, 2009; published January 14, 2009 (74 FR 1976).

### Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and orders regulating the handling of milk in the Mideast marketing area. The hearing was held, 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), Cincinnati, Ohio, on August 19-20, 2008, pursuant to a notice of hearing issued July 21, 2008, and published in the **Federal Register** on July 24, 2008 (73 FR 43160).

### Class I Prices

This action terminates the rulemaking concerning proposed amendments to the Class I prices of the Mideast marketing order. A proposal published in the hearing notice as Proposal 1 sought to increase the Class I prices up to \$0.20 per hundredweight in 110 counties in the southern portion of the marketing area. USDA issued a recommended decision on January 8, 2009, recommending the adoption of Proposal 1, modified to recommend a \$0.20 increase in the Class I price at Charleston, West Virginia.

The recommended decision was based on three primary factors: (1) The southern tier of counties in the Mideast marketing area is a deficit region that must rely on more distant milk to service its fluid distributing plants; (2) higher Class I prices brought about by providing higher Class I price adjustments in the Southeast, Appalachian and Florida marketing orders (southeastern orders) have resulted in more milk servicing those orders from farms located in the Mideast marketing area; and (3) transportation

costs had increased such that the Class I differentials did not offer sufficient pricing incentives to cover the cost of transporting milk from reserve northern surplus regions to the deficit southern region of the marketing area.

As noted in almost all the exceptions to the recommended decision, marketing conditions since the close of the hearing have changed substantially no longer warranting a change in the Class I price surface of the Mideast marketing area. Exceptions filed on behalf of the proponents of Proposal 1 (Michigan Milk Producers Association, Inc., Foremost Farms USA Cooperative, Inc., National Farmers Organization Inc., and Dairy Farmers of America, Inc.) requested that USDA take no action.

### Termination of Proceeding

In view of the foregoing, it is hereby determined that this proceeding with respect to proposed amendment to the Mideast order regarding Class I prices should be and is hereby terminated.

### List of Subjects in 7 CFR Parts 1000 and 1033

Milk marketing orders.

The authority citation for 7 CFR Parts 1000 and 1033 continues to read as follows:

**Authority:** 7 U.S.C. 601–674, and 7253.

Dated: July 14, 2011.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–18393 Filed 7–21–11; 8:45 am]

**BILLING CODE 3410–02–P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 73

[NRC–2011–0164]

### Criminal Penalties for Unauthorized Introduction of Weapons and Sabotage

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for comment; notice of public Webinar.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) is seeking input from the public, licensees, certificate holders, Agreement States, non-Agreement States, and other stakeholders on whether to conduct further rulemaking to implement the criminal penalty provisions found under Sections 229 and 236 of the *Atomic Energy Act of 1954*, as amended (AEA). To aid in that process, the NRC

is requesting comments on the issues discussed in this document. While the NRC has not initiated a rulemaking on this subject, it is using the conventionally established rulemaking comment channels. Additionally, the NRC will hold a public Webinar to discuss these issues.

**DATES:** Submit comments on the issues discussed in this document by October 20, 2011. Comments received after the above date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC–2011–0164 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC–2011–0164. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

- **Fax comments to:** RADB at 301–492–3446.

You can access publicly available documents related to this document using the following methods:

- **NRC's Public Document Room (PDR):** The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **Federal Rulemaking Web site:** Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC–2011–0164.

**FOR FURTHER INFORMATION CONTACT:** Mr. Fritz Sturz, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6678; e-mail: [Fritz.Sturz@nrc.gov](mailto:Fritz.Sturz@nrc.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 229 of the AEA provides Federal criminal sanctions for the wrongful introduction of weapons or explosives into specified classes of facilities, installations or real property under the jurisdiction, administration, in the custody of, or subject to the licensing authority or certification by the Commission. Similarly, Section 236 of the AEA provides Federal criminal sanctions for sabotage of specified classes of nuclear facilities or materials.

On August 8, 2005, President Bush signed into law the *Energy Policy Act of 2005* (EPAct), Public Law 109–58, 119 Stat. 594 (2005). Section 654 of the EPAct, “Unauthorized Introduction of Dangerous Weapons” (119 Stat. 812), amended Section 229 of the AEA, “Trespass on Commission Installations” (42 U.S.C. 2278a), to broaden the list of facilities covered by Section 229. Similarly, Section 655 of the EPAct, “Sabotage of Nuclear Facilities, Fuel, or Designated Material” (119 Stat. 594), amended Section 236 of the AEA, “Sabotage of Nuclear Facilities or Fuel” (42 U.S.C. 2284), to broaden the list of facilities that are covered by Section 236. Additionally, Section 655 of the EPAct added a provision in Section 236(a) authorizing the NRC to identify certain radioactive material or other property for inclusion within the scope of the criminal penalties in Section 236, if the Commission determines by rulemaking or order that such material