

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1131

[Docket No. AO-271-A37; DA-03-04-A]

#### Milk in the Arizona-Las Vegas Marketing Area; Order Amending the Order

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends regulations pertaining to the producer milk provision of the Arizona-Las Vegas Federal milk order. More than the required number of producers for the Arizona-Las Vegas marketing area approved the issuance of the final order amendments.

**EFFECTIVE DATE:** January 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jack Rower, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231—Room 2971, 1400 Independence Avenue, SW., Washington, DC 20250-0231, (202) 720-2357, e-mail: [jack.rower@usda.gov](mailto:jack.rower@usda.gov).

**SUPPLEMENTARY INFORMATION:** This document amends the pooling and related provisions of the Arizona-Las Vegas Federal milk order. Specifically, this final rule permanently adopts a provision that will eliminate the ability to simultaneously pool the same milk on the Arizona-Las Vegas milk order and any State operated milk order that has marketwide pooling.

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.

The final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The 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, 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.

#### Regulatory Flexibility Analysis and Paperwork Reduction Act

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 final 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 \$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 marketing guideline of 500,000 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.

In September 2003, the month in which the hearing began, the milk of 106 dairy producers was pooled on, and 22 handlers were regulated by, the Arizona-Las Vegas order. Approximately 18 producers, or 17 percent, were small businesses based on the above criteria. On the handler side, 7 handlers, or 32 percent were "small businesses."

The adoption of the proposed standards serve to revise and establish criteria that ensure the pooling of producers, producer milk, and plants that have a reasonable association with, and are consistently serving, the fluid milk needs of the Arizona-Las Vegas milk marketing area. Criteria for pooling milk are established on the basis of performance standards that are considered adequate to meet the Class I fluid needs of the market and to determine those that are eligible to share in the revenue that arises from the classified pricing of milk. Criteria for pooling are established without regard to the size of any dairy industry organization or entity. The criteria established in the amended pooling standards provision are applied in an equal fashion to both large and small businesses. Therefore, the amendments will not have a significant economic impact on a substantial number of small entities.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these amendments will have no impact on reporting, recordkeeping, or other compliance requirements because they will remain identical to the current requirements. No new forms are proposed and no additional reporting requirements are necessary.

This action does not require additional information collection that requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the approved forms are routinely used in most business transactions. The forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and

reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

#### Prior Documents in This Proceeding

*Notice of Hearing:* Issued July 31, 2003; published August 6, 2003 (68 FR 46505).

*Correction to Notice of Hearing:* August 20, 2003; published August 26, 2003 (68 FR 51202).

*Notice of Reconvened Hearing:* Issued October 27, 2003; published October 31, 2003 (68 FR 62027).

*Notice of Reconvened Hearing:* Issued December 18, 2003; published December 29, 2003 (68 FR 74874).

*Tentative Final Decision:* Issued December 23, 2004; published December 30, 2004 (69 FR 78355).

*Interim Final Rule:* Issued February 23, 2005; published March 1, 2005 (70 FR 9846).

*Partial Recommended Decision:* Issued April 7, 2005; published April 13, 2005 (70 FR 19636).

*Partial Final Decision:* Issued June 20, 2005; published June 27, 2005 (70 FR 36859).

#### Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Arizona-Las Vegas order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the Arizona-Las Vegas order:

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Arizona-Las Vegas 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Arizona-Las Vegas order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to Section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand

for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The Arizona-Las Vegas order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) or the Act) of more than 50 percent of the milk that is marketed within the specified marketing area to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the Arizona-Las Vegas order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined by the order as hereby amended;

(3) The issuance of the order amending the Arizona-Las Vegas order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the marketing area.

#### List of Subjects in 7 CFR Part 1131

Milk marketing orders.

#### Order Relative to Handling

*It is therefore ordered,* that on and after the effective date hereof, the handling of milk in the Arizona-Las Vegas marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended, as follows:

■ The provisions of the order amending the order contained in the interim amendment of the order issued by the Administrator, Agricultural Marketing Service, on February 23, 2005, and published in the **Federal Register** on March 1, 2005 (70 FR 9846), are adopted without change and shall be and are the terms and provisions of this order.

Dated: November 18, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-23253 Filed 11-23-05; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

#### 8 CFR Part 214

[CIS No. 2369-05; Docket No. USCIS-2005-0022]

RIN 1615-ZA31

#### Short-Term Employment Authorization and Reduced Course Load for Certain F-1 Nonimmigrant Students Adversely Affected by Hurricane Katrina

**AGENCY:** U.S. Citizenship and Immigration Services, DHS.

**ACTION:** Notice of temporary rule suspension.

**SUMMARY:** This document informs the public of the suspension of certain regulatory requirements for a specific group of F-1 nonimmigrant students who were enrolled in academic institutions located in areas that have been adversely affected by Hurricane Katrina. F-1 students who are granted short-term employment authorization pursuant to this document will be deemed to be engaged in a "full course of study" for the duration of their employment authorization, provided such students satisfy the minimum course load requirement set forth in this document.

**DATES:** This document is effective November 25, 2005, and will remain in effect until February 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Alanna Ow, Adjudications Officer, Office of Program and Regulations Development, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue NW, 3rd Floor, Washington, DC 20529, telephone (202) 272-8410.

#### SUPPLEMENTARY INFORMATION:

#### What action is the Department of Homeland Security (DHS) taking under this Notice?

The Secretary of Homeland Security is exercising his authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment. F-1 students, who are granted employment authorization pursuant to this Notice, will be deemed to be engaged in a "full course of study" for the duration of their employment authorization, provided such students satisfy the minimum course load requirement set forth in this Notice. See 8 CFR 214.2(f)(6)(F).