

Rules and Regulations

Federal Register

Vol. 89, No. 35

Wednesday, February 21, 2024

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1145

RIN 0581-AE27

[Doc. No. AMS-DA-23-0085]

Reauthorization of Dairy Forward Pricing Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reauthorizes the Dairy Forward Pricing Program (DFPP) in accordance with the Further Continuing Appropriations and Other Extensions Act, 2024 (Extension Act), and makes two administrative changes to the provisions to include the California Federal milk marketing order in the list of eligible orders where use of a forward contract is applicable. Establishing new contracts under the DFPP was prohibited between the expiration of the program on September 30, 2023, and passage of the Extension Act on November 16, 2023. The Extension Act reauthorizes the DFPP program to allow handlers to enter into new contracts until September 30, 2024. Any forward contract entered prior to the September 30, 2024, deadline must expire by September 30, 2027.

DATES: This final rule is effective February 22, 2024.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231—Room 2530, 1400 Independence Avenue SW, Washington, DC 20250-0231, Telephone: (202) 720-7183, Email: Erin.Taylor@usda.gov.

SUPPLEMENTARY INFORMATION: The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) ¹ initially established the DFPP.² The DFPP allows milk

handlers, under the Agricultural Marketing Agreement Act of 1937, (AMAA) ³ to pay producers or cooperative associations of producers a negotiated price for producer milk, rather than the Federal order minimum blend price for non-fluid classes of milk (Classes II, III, and IV under the FMMO system). The DFPP does not allow for forward contracting of fluid or Class I milk.

Following the initial expiration of the DFPP which prevented the establishment of new contracts after September 30, 2012, the “American Taxpayer Relief Act of 2012,” (ATRA) ⁴ revised the program to allow handlers to enter into new contracts until September 30, 2013. The “Agricultural Act of 2014” (2014 Farm Bill) ⁵ then extended the program to allow new contracts until September 30, 2018. The Agriculture Improvement Act of 2018 (2018 Farm Bill) ⁶ reauthorized the program to allow handlers to enter into new contracts until September 30, 2023. The Extension Act ⁷ extends the program to allow handlers to enter into new contracts until September 30, 2024, subject to a September 30, 2027, expiration date. This final rule applies retroactively to November 16, 2023, in accordance with reauthorization of the DFPP in the Extension Act.

Participation in the DFPP is voluntary for dairy farmers, dairy farmer cooperatives, and handlers. Handlers may not require producer participation in a forward pricing program as a condition for accepting milk. USDA, including Market Administrator personnel, does not determine the terms of forward contracts or enforce negotiated prices. This regulation also does not affect contractual arrangements between a cooperative association and its members.

Under the DFPP, regulated handlers must still account to the FMMO pool for the classified use value of their milk. Regulated handlers claiming exemption from the Federal order minimum pricing provisions must submit to the Market Administrator a copy of each forward contract. The contract must contain a disclosure statement—either as part of the contract itself or as a

supplement—to ensure producers understand the nature of the program as well as the basis on which they will be paid for their milk. Contracts that do not contain a disclosure statement are deemed invalid and returned to the handler. Signed contracts must be received by the Market Administrator before the first of a month, in order to be effective for the month. For example, contracts must be received by the Market Administrator by December 31, 2023, in order to be effective for the month of January 2024.

Handlers with forward contracts remain subject to all other milk marketing order provisions. Payments specified under a forward contract must be made on or before the same date as the federal order payments they replace. Required payment dates are specified in 7 CFR 1145.2(e).

This final rule reauthorizes producers and cooperative associations of producers to enter into forward price contracts under the DFPP through September 30, 2024. All terms of the new forward contracts must expire prior to September 30, 2027. All other provisions and requirements of the program as provided for in the final rule⁸ published October 31, 2008, are still in effect. The California Federal milk marketing order was established ten years later, on November 1, 2018,⁹ which also followed two separate extensions of the DFPP. Thus, the California Federal milk marketing order has not been specifically included in the regulatory text of the DFPP as is every other Federal milk marketing order, and that is corrected here.

Executive Orders 12866, 13563 and 14094

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 14094. Executive orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and

¹ Public Law 110-234.

² 73 FR 64868.

³ 7 U.S.C. 601-614.

⁴ Public Law 112-240.

⁵ Public Law 113-79.

⁶ Public Law 115-334.

⁷ Public Law 118-22.

⁸ 73 FR 64868.

⁹ 83 FR 26547.

promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule has limited retroactive effect to November 16, 2023, in accordance with reauthorization of the DFPP in the Extension Act. This rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

Executive Order 13175

This proposed rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (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 this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. A small dairy farm as defined by the Small Business Administration (SBA) (13 CFR 121.201) is one that has an annual gross revenue of \$3.75 million or less. The SBA's definition of small agricultural service firms, which includes dairy processors, varies based on the type of dairy

product manufactured. Small dairy processors are defined as having between 750 and 1,250 or fewer employees depending on the products made.

According to the 2017 USDA National Agricultural Statistics Service (NASS) Census Report, the most recent report, there were 39,303 farms with milk sales. AMS estimates 36,158 farms, or 92 percent, are considered small businesses. In 2018, 301 handler plants were regulated by or reported their milk receipts to be pooled and priced on a Federal milk marketing order. Of the total, approximately 163 handler plants, or 54 percent, were considered small businesses.

Producers and handlers use the DFPP as a risk management tool. Under the DFPP, producers and handlers can “lock-in” prices, thereby minimizing risks associated with price volatility that are particularly difficult for small businesses to mitigate.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Section 1601(c)(2)(B) of the 2014 Farm Bill provides that the administration of the DFPP shall be made without regard to the Paperwork Reduction Act (PRA), 44 U.S.C. Chapter 35. Section 1701 of the 2018 Farm Bill extended that Congressional direction through September 30, 2023, and that direction is further extended to September 30, 2024, by the current reauthorization of the DFPP, through the Extension Act. Thus, any information collection conducted for the DFPP is not subject to the PRA.

Final Action

In accordance with the Extension Act, this final rule extends the DFPP to all Federal milk marketing orders. New contracts under the Program may be entered into until September 30, 2024. Any forward contract entered into up to and until the September 30, 2024, deadline is subject to a September 30, 2027, expiration date.

Section 1601(c)(2)(A) of the 2014 Farm Bill provides that the promulgation of the regulations to implement the reauthorization of the DFPP shall be made without regard to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553. Section 1701 of the 2018 Farm Bill extended the Congressional direction, and Section 102 of the Extension Act extends that direction to the current reauthorization of the DFPP.

AMS, therefore, is issuing this final rule without prior notice or public comment.

The provisions of this final rule are retroactively effective to November 16, 2023, when the Extension Act became law. As explained above, the DFPP is a voluntary program and AMS will not take action until forward contracts are received from handlers who choose to participate in this program. By making this rule effective retroactive to November 16, 2023, handlers will have the maximum amount of time to begin the contracting process with producers. Thus, it is unnecessary and contrary to the public interest to delay the effective date of the final rule.

Additionally, this rule makes two administrative changes to the provisions (7 CFR 1145.1(c) and 7 CFR 1145.2 (a)) to include the California Federal milk marketing order in the list of eligible orders where use of a forward contract is applicable. The California Federal milk marketing order was established on November 1, 2018, and this is the first rulemaking directly relevant to the DFPP since that time.

List of Subjects in 7 CFR Part 1145

Government contracts, Milk marketing orders, Price support programs, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 1145 as follows:

PART 1145—DAIRY FORWARD PRICING PROGRAM

- 1. The authority citation for 7 CFR part 1145 continues to read as follows:

Authority: 7 U.S.C. 8772.

- 2. Amend § 1145.1 by revising paragraph (c) to read as follows:

§ 1145.1 Definitions.

* * * * *

(c) *Forward contract* means an agreement covering the terms and conditions for the sale of Class II, III or IV milk from a producer defined in 7 CFR 1001.12, 1005.12, 1006.12, 1007.12, 1030.12, 1032.12, 1033.12, 1051.12, 1124.12, 1126.12, 1131.12 or a cooperative association of producers defined in 7 CFR 1000.18, and a handler defined in 7 CFR 1000.9.

* * * * *

- 3. Amend § 1145.2 by revising paragraphs (a) and (b) to read as follows:

§ 1145.2 Program.

(a) Any handler defined in 7 CFR 1000.9 may enter into forward contracts with producers or cooperatives

associations of producers for the handler's eligible volume of milk. Milk under forward contract in compliance with the provisions of this part will be exempt from the minimum payment provisions that would apply to such milk pursuant to 7 CFR 1001.73, 1005.73, 1006.73, 1007.73, 1030.73, 1032.73, 1033.73, 1051.73, 1124.73, 1126.73 and 1131.73 for the period of time covered by the contract.

(b) No forward price contract may be entered into under the program after September 30, 2024, and no forward contract entered into under the program may extend beyond September 30, 2027.

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Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024-03407 Filed 2-20-24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2023-2147; Project Identifier MCAI-2023-00663-E; Amendment 39-22670; AD 2024-03-01]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Pratt & Whitney Canada Corp. (P&WC) Model PW307A and PW307D engines. This AD is prompted by a root cause analysis of an event involving an uncontained failure of a high-pressure turbine (HPT) 1st-stage disk that resulted in high-energy debris penetrating the engine cowl and an aborted takeoff. This AD requires removing from service and replacing certain HPT disks and also prohibits installing certain HPT disks on any engine, as specified in a Transport Canada AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 27, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 27, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket

No. FAA-2023-2147; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; phone: (888) 663-3639; email: TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca; website: tc.canada.ca/en/aviation.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-2147.

FOR FURTHER INFORMATION CONTACT:

Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (781) 238-7146; email: barbara.caufield@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all P&WC Model PW307A and PW307D engines. The NPRM published in the **Federal Register** on November 9, 2023 (88 FR 77236). The NPRM was prompted by AD CF-2023-30, dated May 8, 2023 (Transport Canada AD CF-2023-30) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states that on March 18, 2020, an Airbus Model A321-231 airplane, powered by International Aero Engines AG (IAE) Model V2533-A5 engines, experienced an uncontained HPT 1st-stage disk failure that resulted in an aborted takeoff and high-energy debris penetrating the engine cowl.

In response to the March 2020 uncontained HPT 1st-stage disk failure, the FAA issued a series of ADs, including Emergency AD 2020-07-51, Amendment 39-21110 (85 FR 20402, April 13, 2020) (AD 2020-07-51). Since the FAA issued AD 2020-07-51, IAE

determined that the failure of the V2533-A5 engine was due to an undetected subsurface material defect in the HPT 1st-stage disk that may affect the life of the part. In coordination with IAE, P&WC performed a records review and analysis of PW307A and PW307D engine parts made of similar material and identified additional affected HPT 1st and 2nd-stage disks, installed on PW307A and PW307D engines. These additional HPT disks may have a material defect that could reduce the life of the part and must be removed from service.

In the NPRM, the FAA proposed to require replacing certain HPT disks and prohibiting the installation of certain HPT disks on any engine, as specified in the MCAI. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-2147.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 14 CFR Part 51

The FAA reviewed Transport Canada AD CF-2023-30, which identifies the affected HPT disks and specifies procedures for replacement. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 63 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD: