

**List of Subjects in 7 CFR Part 1124 and 1135**

Milk marketing orders.

Dated: August 8, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

**Interim Order Amending the Orders Regulating the Handling of Milk in the Pacific Northwest and Western Marketing Areas**

This interim order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

**Findings and Determinations**

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Pacific Northwest and Western marketing areas. 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 said orders 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 said orders as hereby amended regulate 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, the marketing agreements upon which a hearing has been held.

**Order Relative to Handling**

*It is therefore ordered,* that on and after the effective date hereof, the handling of milk in the Pacific Northwest and Western marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

**PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA**

1. The authority citation for 7 CFR part 1124 and 1135 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 1124.13 is amended by:

(a) Revising the introductory text; and

(b) Adding a new paragraph (f).

The revision and addition read as follows:

**§ 1124.13 Producer milk.**

Except as provided for in paragraph (f) of this section, *Producer milk* means the skim milk (or skim milk equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

\* \* \* \* \*

(f) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

**PART 1135—MILK IN THE WESTERN MARKETING AREA**

3. Section 1135.7 is amended by adding a new paragraph (c)(5).

The addition reads as follows:

**§ 1135.7 Pool plant.**

\* \* \* \* \*

(c) \* \* \*

(5) Shipments used in determining qualifying percentages shall be milk transferred or diverted to and physically received by distributing pool plants, less any transfers of bulk fluid milk products from such distributing pool plants.

\* \* \* \* \*

**§ 1135.11 [Removed]**

4. Section 1135.11 is removed.

5. Section 1135.13 is amended by:

(a) Revising the introductory text.

(b) Revising paragraph (d)(1);

(c) Redesignating paragraph (d)(3) through (d)(6) as (d)(4) through (d)(7);

(d) Adding a new paragraph (d)(3); and

(e) Adding a new paragraph (e).

The revisions and additions read as follows:

**§ 1135.13 Producer milk.**

Except as provided for in paragraph (e) of this section, *Producer milk* means the skim milk (or skim milk equivalent of components of skim milk), including nonfat components, and butterfat in milk of a producer that is:

\* \* \* \* \*

(d) \* \* \*

(1) Milk of a dairy farmer shall not be eligible for diversion unless at least one day's milk production of such dairy farmer has been physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion unless one day's milk production has been physically received as producer milk at a pool plant during the month;

\* \* \* \* \*

(3) Receipts used in determining qualifying percentages shall be milk transferred to, diverted to, or delivered from farms of producers pursuant to § 1000.9(c) and physically received by plants described in § 1135.7(a) or (b), less any transfers of diversions of bulk fluid milk products from such pool distributing plants.

\* \* \* \* \*

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

6. Section 1135.12 is amended by:

(a) Revising paragraph (b)(5).

The revision reads as follows:

**§ 1135.12 Producer.**

\* \* \* \* \*

(b) \* \* \*

(5) A dairy farmer whose milk was received at a nonpool plant during the month from the same farm (except a nonpool plant that has no utilization of milk products in any class other than Class II, Class III, or Class IV) as other than producer milk under the order in this part or any other Federal order. Such a dairy farmer shall be known as a dairy farmer for other markets.

\* \* \* \* \*

**Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas**

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part