

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1131, and 1135

[Docket No. AO-14-A69, et al.: DA-00-03]

Milk in the Northeast and Other Marketing Areas: Order Amending the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

| 7 CFR Part | Marketing area | AO nos. |
|------------|------------------------|------------|
| 1001 | Northeast | AO-14-A69 |
| 1005 | Appalachian | AO-388-A11 |
| 1006 | Florida | AO-356-A34 |
| 1007 | Southeast | AO-366-A40 |
| 1030 | Upper Midwest | AO-361-A34 |
| 1032 | Central | AO-313-A43 |
| 1033 | Midwest | AO-166-A67 |
| 1124 | Pacific Northwest | AO-368-A27 |
| 1126 | Southwest | AO-231-A65 |
| 1131 | Arizona-Las Vegas .. | AO-271-A35 |
| 1135 | Western | AO-380-A17 |

SUMMARY: This final rule implements revised product-price formulas for establishing Class III and Class IV milk prices. The formulas are applicable to all Federal milk marketing orders. Each of the amended orders was approved by producers who were eligible to have their milk pooled during the representative month for voting purposes. Referenda were conducted in two markets, and dairy farmer cooperatives were polled in the other nine markets to determine whether dairy farmers approve the issuance of the orders as amended.

EFFECTIVE DATE: April 1, 2003.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Associate Deputy Administrator, Order Formulation and

Enforcement, USDA/AMS/Dairy Programs, Stop 0231-Room 2968, 1400 Independence Avenue, SW., Washington, DC 20250-0231, (202) 720-6274, e-mail: clifford.carman@usda.gov.

SUPPLEMENTARY INFORMATION: This administrative rule 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the 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 Department 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 Department'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.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has certified that this 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 production 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 consideration of the economic impact of changes to the Federal milk marketing order program implemented by this final rule on small entities, AMS prepared a regulatory flexibility analysis that was included in the final decision (67 FR 67906). The analysis indicates that the Department minimized the significant economic impact of the regulations on small entities to the fullest extent reasonably possible while adhering to the stated objectives. The Department reviewed the regulatory and financial burdens resulting from the regulations and determined, to the fullest extent possible, the impact on small businesses' abilities to compete in the market place. The Department reviewed the regulations from both the small producer and small processor perspectives, attempting to maintain a balance between these competing interests. Neither small producers nor small handlers should experience any particular disadvantage as a result of the order amendments.

No additional information collection or reporting requirements will be necessitated by the amendments.

An analysis of the economic effects of the alternatives selected was done and summarized in the final decision. A complete economic analysis is available upon request from Howard McDowell, Senior Economist, Office of the Chief Economist, USDA/AMS/Dairy Programs, Stop 0229-Room 2753, 1400 Independence Avenue, SW., Washington, DC 20250-0229, (202) 720-7091, e-mail: howard.mcdowell@usda.gov.

Civil Rights Impact Statement

Pursuant to Departmental Regulation (DR) 4300-4, a comprehensive Civil Rights Impact Analysis (CRIA) was