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DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, 1129, 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.

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

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 606(c)(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.
conducted and published with the final
decision on Federal milk order
consolidation and reform. The
conclusion of that analysis disclosed no
potential for affecting dairy farmers in
protected groups differently than the
general population of dairy farmers.
This issue was reconsidered in the Final
Decision (67 FR 67906) with regard to
the order amendments, and the
conclusion has not changed.
Copies of the Civil Rights Impact
Analysis done for the Final Decision on
Federal milk order consolidation and
reform can be obtained from AMS Dairy
Programs at (202) 720–4392; any Milk
Market Administrator office; or via the
Internet at: http://www.ams.usda.gov/
dairy/.

Prior documents in this proceeding:
Notice of Hearing: Issued April 6,
2000; published April 14, 2000 (65 FR
20094).
Tentative Final Decision: Issued
November 29, 2000; published
December 7, 2000 (65 FR 76832).
Interim Final Rule: Issued December
21, 2000; published December 28, 2000
(65 FR 82832).
Recommended Decision: Issued
October 19, 2001; published November
29, 2001 (66 FR 59546).
Extension of Time: Issued November
26, 2001; published November 29, 2001
(66 FR 59546).
Final Decision: Issued October 25,
2002; published November 7, 2002 (67
FR 67906).

Findings and Determinations

The findings and determinations
hereinafter set forth supplement those
that were made when the Northeast and
other orders were first issued and when
they were 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 each of the
aforesaid orders:
(a) Findings upon the basis of
the hearing record. 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), a public hearing was held
upon certain proposed amendments to
the tentative marketing agreement
and to the orders regulating the handling of
milk in the respective marketing areas.
Upon the basis of the evidence
introduced at that hearing and the
record thereof, for each of the aforesaid
orders, 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 marketing areas, and the
minimum prices specified in the orders,
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 are
applicable only to persons in the
respective classes of industrial and
commercial activity specified in,
marketing agreements upon which a
hearing has been held.

(b) Additional Findings. It is
necessary in the public interest to make
these amendments to the Northeast and
other orders effective for milk marketed
on or after April 1, 2003. Any delay
beyond that date would tend to disrupt
the orderly marketing of milk in the
aforesaid marketing areas.

The amendments to these orders are
known to handlers. The final decision
containing the proposed amendments to
these orders was issued on October 25,
2002.

The changes that result from these
amendments will not require extensive
preparation or substantial alteration in
the method of operation for handlers. In
view of the foregoing, it is hereby found
and determined that good cause exists
for making these order amendments
effective for milk marketed on or after
April 1, 2003.

(c) Determinations. It is hereby
determined that:

(1) The refusal or failure of handlers
(excluding cooperative associations
specified in Sec. 8c(9) of the Act) of
more than 50 percent of the milk, which
is marketed within each of the specified
marketing areas, 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 Northeast and other
orders is the only practical means
which affect market supply and demand
for milk in the respective marketing areas,
to sign a proposed
marketing areas, to sign a proposed
marketing agreement, tends to prevent
the effectuation of the declared policy of
the Act;

(3) The issuance of the order
amending the Northeast and other
orders is the only practical means
toward the effectuation of the declared policy of the Act;

The order relative to marketing
areas shall be in conformity to and in compliance with the
terms and conditions of the orders,
as amended, and as hereby further
amended, as follows:
The authority citation for 7 CFR parts
1000, 1001, 1005, 1006, 1007, 1030, 1032,
1033, 1124, 1126, 1131, and 1135
reads as follows:

PART 1000—GENERAL PROVISIONS
OF FEDERAL MILK MARKETING
ORDERS

1. Section 1000.40 is amended by
adding paragraph (c)(1)(ii) and revising
paragraph (d)(1)(i) to read as follows:

§1000.40 Classes of utilization.

* * * * *

(c) * * * * *

(1) * * * *

(ii) Plastic cream, anhydrous milkfat,
and butteroil; and

* * * * *

(d) * * *

(1) * * *

(i) Butter; and

* * * * *

2. Section 1000.50 is amended by
revising the last sentence of the
introductory text; by revising
paragraphs (a), (b), (c), (g), (h), (j), (l),
(m), (n), (o), (p)(1), and (q)(3); and by
removing paragraph (q)(4) to read as follows:

§1000.50 Class prices, component prices,
and advanced pricing factors.

* * * * *

The price described in
paragraph (d) of this section shall be
derived from the Class II skim milk
price announced on or before the 23rd
day of the month preceding the month
to which it applies and the butterfat
price announced on or before the 5th
day of the month following the month
to which it applies.

(a) Class I price. The Class I price per
hundredweight, rounded to the nearest
cent, shall be 0.965 times the Class I
skim milk price plus 3.5 times the Class
I butterfat price.

(b) Class I skim milk price. The Class
I skim milk price per hundredweight
shall be the adjusted Class I differential

the production of milk for sale in each
marketing area.

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

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 Northeast and
other marketing areas shall be in

conformity to and in compliance with the
terms and conditions of the orders,
as amended, and as hereby further
amended, as follows:

The authority citation for 7 CFR parts
1000, 1001, 1005, 1006, 1007, 1030,
1032, 1033, 1124, 1126, 1131, and 1135
reads as follows:

specified in §1000.52 plus the higher of the advanced pricing factors computed in paragraph (q)(1) or (2) of this section.

(c) Class I butterfat price. The Class I butterfat price per pound shall be the adjusted Class I differential specified in §1000.52 divided by 100, plus the advanced butterfat price computed in paragraph (q)(3) of this section.

* * * * *

(g) Class II butterfat price. The Class II butterfat price per pound shall be the butterfat price plus $0.007.

(h) Class III price. The Class III price per hundredweight, rounded to the nearest cent, shall be 0.965 times the Class III skim milk price plus 3.5 times the butterfat price.

* * * * *

(j) Class IV price. The Class IV price per hundredweight, rounded to the nearest cent, shall be 0.965 times the Class IV skim milk price plus 3.5 times the butterfat price.

* * * * *

(l) Butterfat price. The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS AA Butter survey price reported by the Department for the month less 11.5 cents, with the result multiplied by 1.20.

(m) Nonfat solids price. The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS nonfat dry milk survey price reported by the Department for the month less 14 cents and multiplying the result by 0.99.

(n) Protein price. The protein price per pound, rounded to the nearest one-hundredth cent, shall be computed as follows:

(1) Compute a weighted average of the amounts described in paragraphs (n)(1)(i) and (ii) of this section:
   (i) The U.S. average NASS survey price for 40-lb. block cheese reported by the Department for the month; and
   (ii) The U.S. average NASS survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents.

(2) Subtract 16.5 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:
   (i) Subtract 16.5 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and
   (ii) Subtract 0.9 times the butterfat price computed pursuant to paragraph (l) of this section from the amount computed pursuant to paragraph (n)(3)(i) of this section; and
   (iii) Multiply the amount computed pursuant to paragraph (n)(3)(ii) of this section by 1.17.

(o) Other solids price. The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS dry whey survey price reported by the Department for the month minus 15.9 cents, with the result multiplied by 1.03.

* * * * *

(1) Multiply 0.0005 by the weighted average price computed pursuant to paragraph (n)(1) of this section and round to the 5th decimal place;

* * * * *

(3) An advanced butterfat price per pound, rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average NASS AA Butter survey prices announced before the 24th day of the month, subtracting 11.5 cents from this average, and multiplying the result by 1.20.

PART 1001—MILK IN THE NORTHEAST MARKETING AREA

1. Section 1001.60 is amended by revising paragraphs (c)(3), (d)(2), and (h) to read as follows:

§1001.60 Handler’s value of milk.

* * * * *

(c) * * *

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) * * *

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

* * * * *

(h) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §1000.43(d) and §1000.44(a)(3)(i) and the corresponding step of §1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(8) and the corresponding step of §1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

* * * * *

2. Section 1001.61 is revised to read as follows:

§1001.61 Computation of producer price differential.

For each month, the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to §1001.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions in this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to §1001.60 for all handlers required to file reports prescribed in §1001.30;

(b) Subtract the total of the values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to §1001.60 by the protein price, other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to §1001.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to §1001.60(h); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result, rounded to the nearest cent, shall be known as the producer price differential for the month.

3. Section 1001.62 is amended by revising paragraphs (e) and (g) to read as follows:

§1001.62 Announcement of producer prices.

* * * * *

(e) The butterfat price;
(g) The statistical uniform price for milk containing 3.5 percent butterfat computed by combining the Class III price and the producer price differential.

4. Section 1001.71 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§1001.71 Payments to the producer-settlement fund.

   (b) * * *
   (2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively; and
   (3) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to §1001.60(h) by the producer price differential as adjusted pursuant to §1001.75 for the location of the plant from which received.

5. Section 1001.73 is amended by revising paragraphs (a)(2)(ii) and (b)(3)(vi) to read as follows:

§1001.73 Payments to producers and to cooperative associations.

   (a) * * *
   (2) * * *
   (ii) Multiply the pounds of butterfat received by the butterfat price for the month;
   * * * * *
   (b) * * *
   (3) * * *
   (vi) Multiply the pounds of butterfat in Class III and Class IV milk by the butterfat price for the month;
   * * * * *

PART 1030—MILK IN THE UPPER MIDWEST MARKETING AREA

1. Section 1030.60 is amended by revising paragraphs (c)(3), (d)(2), and (i) to read as follows:

§1030.60 Handler’s value of milk.

   * * * * *
   (c) * * *
   (3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.
   (d) * * *
   (2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.
   * * * * *
   (i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §1000.43(d) and §1000.44(a)(3)(i) and the corresponding step of §1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(8) and the corresponding step of §1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

2. Section 1030.61 is revised to read as follows:

§1030.61 Computation of producer price differential.

   For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to §1030.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:
   (a) Combine into one total the values computed pursuant to §1030.60 for all handlers required to file reports prescribed in §1030.30;
   (b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;
   * * * * *
   (4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to §1030.60(i) by the producer price differential as adjusted pursuant to §1030.75 for the location of the plant from which received.

5. Section 1030.73 is amended by revising paragraphs (a)(2)(iii), (c)(2)(v), and (c)(3)(ii) to read as follows:

§1030.73 Payments to producers and to cooperative associations.

   (a) * * *
   (2) * * *
   (ii) The pounds of butterfat received times the butterfat price for the month;
   * * * * *
   (c) * * *
   (2) * * *
   (v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;
   * * * * *
   (3) * * *
   (i) The pounds of butterfat received times the butterfat price for the month:
   * * * * *
PART 1032—MILK IN THE CENTRAL MARKETING AREA

1. Section 1032.60 is amended by revising paragraphs (c)(3), (d)(2), and (i) to read as follows:

§ 1032.60 Handler’s value of milk.

  (c) * * *
  (3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

  (d) * * *
  (2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

  (i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plant from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(l) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

2. Section 1032.61 is revised to read as follows:

§ 1032.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1032.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1032.60 for all handlers required to file reports prescribed in § 1032.30;

(b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1032.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1032.30(a)(1) and (c)(1);

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1032.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.60(d);

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

3. Section 1032.62 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 1032.62 Announcement of producer prices.

  (b) * * *
  (2) * * *

  (h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III and the producer price differential.

4. Section 1032.71 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 1032.71 Payments to the producer-settlement fund.

  (b) * * *
  (2) * * *

  (4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1032.60(i) by the producer price differential as adjusted pursuant to § 1032.75 for the location of the plant from which received.

5. Section 1032.73 is amended by revising paragraphs (a)(2)(ii), (c)(2)(v), and (c)(3)(ii) to read as follows:

§ 1032.73 Payments to producers and to cooperative associations.

  (a) * * *
  (2) * * *

  (ii) The pounds of butterfat received times the butterfat price for the month:

  (c) * * *
  (2) * * *

  (v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

  (i) The pounds of butterfat received times the butterfat price for the month:

PART 1033—MILK IN THE MIDEAST MARKETING AREA

1. Section 1033.60 is amended by revising paragraphs (c)(3), (d)(2), and (i) to read as follows:

§ 1033.60 Handler’s value of milk.

  (c) * * *
  (3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

  (d) * * *
  (2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

  (i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(l) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

2. Section 1033.61 is revised to read as follows:

§ 1033.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1033.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers required to file reports prescribed in § 1033.30;

(b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1033.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1033.30(a)(1) and (c)(1);

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1033.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1033.60(d);

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

3. Section 1033.62 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 1033.62 Announcement of producer prices.

  (b) * * *
  (2) * * *

  (h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III and the producer price differential.

4. Section 1033.71 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 1033.71 Payments to the producer-settlement fund.

  (b) * * *
  (2) * * *

  (4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1033.60(i) by the producer price differential as adjusted pursuant to § 1033.75 for the location of the plant from which received.

5. Section 1033.73 is amended by revising paragraphs (a)(2)(ii), (c)(2)(v), and (c)(3)(ii) to read as follows:

§ 1033.73 Payments to producers and to cooperative associations.

  (a) * * *
  (2) * * *

  (ii) The pounds of butterfat received times the butterfat price for the month:

  (c) * * *
  (2) * * *

  (v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

  (i) The pounds of butterfat received times the butterfat price for the month:
§ 1033.61 Computation of producer price differential.
For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1033.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:
(a) Combine into one total the values computed pursuant to § 1033.60 for all handlers required to file reports prescribed in § 1033.30;
(b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1033.60 by the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1033.30(a)(1) and (c)(1);
(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1033.75;
(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;
(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:
(1) The total hundredweight of producer milk; and
(2) The total hundredweight for which a value is computed pursuant to § 1033.60(i); and
(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

3. Section 1033.62 is amended by revising paragraphs (e) and (h) to read as follows:
§ 1033.62 Announcement of producer prices.
* * * * *
(e) The butterfat price;
* * * * *
(h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

4. Section 1033.71 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:
§ 1033.71 Payments to the producer-settlement fund.
* * * * *
(b) * * *
(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices, respectively;
* * * * *
(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1033.60(i) by the producer price differential as adjusted pursuant to § 1033.75 for the location of the plant from which received.
5. Section 1033.73 is amended by revising paragraphs (a)(2)(ii) and (b)(3)(v) to read as follows:
§ 1033.73 Payments to producers and to cooperative associations.
(a) * * *
(2) * * *
(ii) The pounds of butterfat received times the butterfat price for the month;
* * * * *
(b) * * *
(3) * * *
(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;
* * * * *
§ 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

1. Section 1124.60 is amended by revising paragraphs (c)(3), (d)(2), and (h) to read as follows:
§ 1124.60 Handler’s value of milk.
* * * * *
(c) * * *
(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.
(d) * * *
(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.
* * * * *
(h) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

2. Section 1124.61 is revised to read as follows:
§ 1124.61 Computation of producer price differential.
For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1124.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations.

Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:
(a) Combine into one total the values computed pursuant to § 1124.60 for all handlers required to file reports prescribed in § 1124.30;
(b) Subtract the total values obtained by multiplying each handler’s total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1124.60 by the protein price, the other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1033.30(a)(1) and (c)(1);
(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1033.75;
(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;
(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:
(1) The total hundredweight of producer milk; and
(2) The total hundredweight for which a value is computed pursuant to § 1124.60(i); and
(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.
3. Section 1124.62 is amended by revising paragraphs (e) and (g) to read as follows:

§ 1124.62 Announcement of producer prices.

* * * * *

(e) The butterfat price;

* * * * *

(g) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

4. Section 1124.71 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 1124.71 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively; and

(3) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1124.60(b) by the producer price differential as adjusted pursuant to § 1124.75 for the location of the plant from which received.

5. Section 1124.73 is amended by revising paragraphs (a)(2)(ii), (c)(2)(v), and (c)(3)(ii) to read as follows:

§ 1124.73 Payments to producers and to cooperative associations.

* * * * *

(a) * * *

(2) The pounds of butterfat received times the butterfat price for the month;

(c) * * *

(ii) The pounds of butterfat in Class III and Class IV milk times the butterfat prices;

* * * * *

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat prices;

* * * * *

(ii) The pounds of butterfat received times the butterfat price for the month;

* * * * *

PART 1126—MILK IN THE SOUTHWEST MARKETING AREA

1. Section 1126.60 is amended by revising paragraphs (c)(3), (d)(2), and (i) to read as follows:

§ 1126.60 Handler's value of milk.

* * * * *

(c) * * *

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) * * *

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

* * * * *

(i) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

* * * * *

2. Section 1126.61 is revised to read as follows:

§ 1126.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1126.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler's report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers required to file reports prescribed in § 1126.30;

(b) Subtract the total of the values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in milk for which an obligation was computed pursuant to § 1126.60 by the protein price, other solids price, and the butterfat price, respectively, and the total value of the somatic cell adjustment pursuant to § 1126.30(a)(1) and (c)(1);

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1126.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(i); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

3. Section 1126.62 is amended by revising paragraphs (e) and (h) to read as follows:

§ 1126.62 Announcement of producer prices.

* * * * *

(e) The butterfat price;

* * * * *

(h) The statistical uniform price for milk containing 3.5 percent butterfat, computed by combining the Class III price and the producer price differential.

4. Section 1126.71 is amended by revising paragraphs (b)(2) and (b)(4) to read as follows:

§ 1126.71 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively;

* * * * *

(4) An amount obtained by multiplying the pounds of skim milk and butterfat for which a value was computed pursuant to § 1126.60(i) by the producer price differential as adjusted pursuant to § 1126.75 for the location of the plant from which received.

5. Section 1126.73 is amended by revising paragraphs (a)(2)(ii) and (b)(3)(v) to read as follows:

§ 1126.73 Payments to producers and to cooperative associations.

* * * * *

(a) * * *

(2) * * *
(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

(b) * * * *

(3) * * * *

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

* * * * *

PART 1135—MILK IN THE WESTERN MARKETING AREA

1. Section 1135.60 is amended by revising paragraphs (c)(3), (d)(2) and (h) to read as follows:

§ 1135.60 Handler’s value of milk.

(c) * * * *

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) * * *

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

* * * * *

(h) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

* * * * *

2. Section 1135.61 is revised to read as follows:

§ 1135.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1135.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1135.60 for all handlers required to file reports prescribed in § 1135.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1135.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1135.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1135.60(b); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

3. Section 1135.62 is amended by revising paragraphs (e) and (g) to read as follows:

§ 1135.62 Announcement of producer prices.

(e) The butterfat price;

* * * * *

(g) The statistical uniform price for milk containing 3.5 percent butterfat computed by combining the Class III price and the producer price differential.

* * * * *

4. Section 1135.71 is amended by revising paragraph (b)(2) and removing and reserving paragraph (b)(3) to read as follows:

§ 1135.71 Payments to the producer-settlement fund.

(b) * * *

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other solids, and butterfat prices respectively; and

(3) [Reserved]

* * * * *

5. Section 1135.73 is amended by revising paragraphs (a)(2)(ii) and (b)(3)(v) to read as follows:

§ 1135.73 Payments to producers and to cooperative associations.

(a) * * *

(ii) The pounds of butterfat received times the butterfat price for the month;

* * * * *

(b) * * *

(3) * * *

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

* * * * *


A.J. Yates,
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[FR Doc. 03–3442 Filed 2–11–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1032

[Docket No. AO–313–A44; DA–01–07]

Milk in the Central Marketing Area; Interim Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This order amends certain pooling provisions of the Central Federal milk order on an interim basis. This interim order amends the Pool plant provisions that: Establish lower but year-round supply plant performance standards; will not consider the volume of milk shipments to distributing plants regulated by another Federal milk order as a qualifying shipment for the Central order; exclude from receipts diverted milk made by a pool plant to another pool plant in determining pool plant diversion limits; and establish a “net shipments” provision for milk deliveries to distributing plants. For Producer milk, this interim order adopts amendments that: establish higher year-round diversion limits; will base diversion limits for supply plants on deliveries to Central order distributing plants; and eliminate the ability to simultaneously pool milk on the Central milk order and a State-operated milk...