

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. The authority citation for 7 CFR Part 1002 continues to read as follows:
Authority: 7 U.S.C. 601-674.

§ 1002.100-1002.260 [Removed]

2. In part 1002, Subpart—Classification and Accounting Rules and Regulations, §§ 1002.100 through 1002.260 and their undesignated centerheadings and the subpart heading are removed.

§ 1002.500-1002.501 [Removed]

3. In part 1002, Subpart—Determination and Public Announcement of Freight Zones, §§ 1002.500 through 1002.501, and their subpart heading are removed.

Dated: November 27, 1995.

Shirley R. Watkins,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-29460 Filed 12-1-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 1002

[DA-95-23B]

Milk in the New York-New Jersey Marketing Area; Interim Rule: Termination of Certain Order Provisions and Removal of Certain Regulations of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim Rule terminating certain provisions with request for comments.

SUMMARY: This document removes certain provisions of the New York-New Jersey Federal milk marketing order (Order 2) and removes two subparts of provisions issued thereunder from publication in the Code of Federal Regulations. Specifically, this document terminates the requirement that certain changes to the market administrator's rules and regulations be published in the Federal Register. Additionally, this document removes the publication of two Order 2 subparts containing the market administrator's rules and regulations—Conduct of Hearings Relating to Suspended Cooperative Payments, and Cooperative Payment Rules and Regulations Approval of Tentative Amendment—from the annual Code of Federal Regulations. Nevertheless, the provisions of the subparts will continue to apply to the administration of the order and will be maintained by the market administrator as separate documents. This action is taken to reduce printing costs and to comply with the President's regulatory reform initiative.

DATES: Effective: December 4, 1995. Comments are due on or before January 3, 1996.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202)690-1366.

SUPPLEMENTARY INFORMATION: This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force. The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that these actions would not have a significant economic impact on a substantial number of small entities. These actions would reduce the cost involved with publishing in the Code of Federal Regulations regulations that are available to the industry from the market administrator. Furthermore, except for order provisions concerning publication in the Federal Register, this action makes no changes in the operation of the order or the provisions of the rules and regulations issued thereunder.

The Department is issuing these interim rules in conformance with Executive Order 12866.

These interim rules have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have a retroactive effect. These interim rules will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rules.

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 file 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 law and request a modification of an order or to be exempted from the order. 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.

Pursuant to the provisions of the Agricultural Marketing Agreement Act, the following provisions of the order regulating the handling of milk in the New York-New Jersey marketing area are terminated by this interim rule:

1. In § 1002.77(I)(1), the following words: "published in the Federal Register and".

2. In § 1002.77(I)(3), the following words: "approval, and shall be published in the Federal Register following such".

In addition, the following provisions of the rules and regulations issued under the order do not need to be published in the Code of Federal Regulations:

3. Subpart—Conduct of Hearings Relating to Suspended Cooperative Payments (§§ 1002.300 through 1002.353).

4. Subpart—Cooperative Payment Rules and Regulations Approval of Tentative Amendment (§§ 1002.400 through 1002.444).

All persons who want to send written data, views, or arguments about these interim actions should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 30th day after the publication of this document in the Federal Register.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CAR 1.27(b)).

Statement of Consideration

This interim rule terminates the requirement which provides that certain rules and regulations issued by the market administrator of the New York-New Jersey order (Order 2) be published in the Federal Register after they have been approved by the Secretary. Additionally, two Order 2 subparts, which contain the market administrator's rules and regulations involving the conduct of hearings related to suspended cooperative payments and cooperative payment rules and regulations, would no longer be published in the annual Code of Federal Regulations.

The market administrator will continue to issue any specific rules and

regulations that are needed to effectuate the provisions of the order regulating the handling of milk in the Order 2 marketing area. These rules and regulations are, and will continue to be, issued to facilitate the administration of the order and are updated as necessary, published, and made available to interested parties. Industry representatives may request a copy of the rules and regulations from the market administrator at any time.

This action will not change the rules and regulations previously issued by the Order 2 market administrator and now in effect to carry out the regulatory provisions of the order. Order 2 establishes specific procedures that must be followed by the market administrator in revising the rules and regulations. It also sets forth methods whereby interested parties are informed about proposals to change the rules and regulations and how they may participate in the promulgation process.

The printing and procedural functions involving the implementation of rules and regulations for Order 2 are accomplished by the market administrator in the performance of his duties. These matters are being adequately performed by the Order 2 market administrator. Thus, it should not be necessary to replicate the market administrator's efforts by requiring that certain portions of the rules and regulations, all of which must be approved by the Secretary, be published in the Federal Register or that the Order 2 subparts containing the rules and regulations be published in the Code of Federal Regulations each year. Furthermore, this action is consistent with the President's regulatory reform initiative.

Accordingly, with regard to the termination of the provisions of the order as hereinafter set forth, it is found in accordance with the Act that these provisions no longer tend to effectuate the declared policy of the Act. Pursuant to 5 U.S.C. 553, it is hereby found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule in effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because, except for order provisions concerning publication in the Federal Register, this action will not affect the operation or administration of the order or the provisions issued thereunder.

Written comments are invited from interested parties concerning this action.

List of Subjects in 7 CFR Part 1002

Milk marketing orders.

Order

For the reasons set forth in the preamble, 7 CFR part 1002 is amended as follows:

PART 1002—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

1. The authority citation for 7 CFR part 1002 continues to read as follows:

Authority: 7 U.S.C. 601-674.

§ 1002.77 [Amended]

2. In § 1002.77, paragraph (i)(1), the words "published in the Federal Register and" are removed.

3. In § 1002.77, paragraph (i)(3), the words "approval, and shall be published in the Federal Register following such" are removed.

§§ 1002.300-1002.353 [Removed]

4. In part 1002, Subpart—Conduct of Hearings Relating to Suspended Cooperative Payments (§§ 1002.300 through 1002.353) is removed.

§§ 1002.400-1002-444 [Removed]

5. Subpart—Cooperative Payment Rules and Regulations Approval of Tentative Amendment, §§ 1002.400 through 1002.444 and their undesignated centerheadings and the subpart heading are removed.

Dated: November 27, 1995.

Shirley R. Watkins,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-29461 Filed 12-1-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 1260

[No. LS-95-007]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adjusts representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act (Act) of 1985, to reflect changes in cattle inventories and cattle and beef imports that have occurred since the Board was reapportioned in 1993. These adjustments are required by the Beef Promotion and Research Order (Order) and would result in an increase in Board membership from 107 to 111, effective with the Secretary's 1996 appointments.

EFFECTIVE DATE: January 3, 1996.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service (AMS), USDA, Room 2606-S, P.O. Box 96456, Washington, DC 20090-6456. 202/720-1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This final 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).

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of AMS has determined that this final rule will not have a significant impact on a substantial number of small entities as defined by RFA since it only adjusts representation on the Board to reflect changes in domestic cattle inventory and imports.

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901 *et seq.*) and the Order issued thereunder (7 CFR 1260.101 *et seq.*). Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Secretary from nominations submitted by certified producer and importer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years and not more than every 2 years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, shall reapportion