

Service Employees Intern. Union, Local 102 v. County of San Diego, 60 F.3d 1346 (9th Cir. 1994) (good cause exemption to § 553(d) includes situations where compliance is impracticable, unnecessary, or contrary to the public interest); *Buschmann v. Schweiker*, 676 F.2d 352 (9th Cir. 1982) (same).

(1) It would be impracticable to provide the thirty-day interval because the previously published amendment exempting certain school milk for the 1998-1999 school year applies to milk being distributed to schools opening in New England in August. The full thirty-day notice would not allow the Commission to set aside the funds from the August pool, paid in September, although the potential liability to eligible school food authorities would be established with the opening of the 1998-1999 school year; and

(2) The full thirty-day notice is unnecessary because this amendment merely affects the mathematical computations necessary to implement the existing rule exempting school milk from the Compact Over-order obligation; and

(3) Due to increases in federal market Class I milk prices, there will be no Compact Over-order pool for September, paid in October, from which to reserve funds to implement the school milk exemption. Therefore, the full thirty-day notice requirement would be contrary to the public interest, as found by the Commission in adopting both the underlying school milk exemption regulation, and this amendment which implements that regulation, because the Commission could not begin to establish the reserve account until well into the 1998-1999 school year. Thus, the otherwise required thirty-day notice procedure would seriously impair the effectiveness of the amendment.

Finally, the purpose of the procedural requirement that a rule be published thirty days prior to its effective date is to permit those affected by the amendment a reasonable amount of time to prepare to take whatever action is prompted by the final rule. In this instance, the amendment merely implements a rule that all affected people have had notice of since publication of the school milk exemption regulation on February 27, 1998. The only action required by the amendment is to be taken by the Commission through the establishment of a reserve account. Those most affected by the amendment are (1) the school food authorities whose interests are best served by the Commission funding the reserve account as soon possible after the opening of the 1998-

1999 school year, and (2) the producers, all of whom have received ballots in February 1998 and August 1998 to vote on, and approve, the adoption of the school milk exemption and its implementation. For all of these reasons, the full thirty-day notice period is not required.

IV. Required Findings of Fact

Pursuant to Compact Article V. Section 12, the Compact Commission hereby finds:

(1) That the public interest will be served by the amendment of minimum milk price regulation to dairy farmers under Article IV to establish a reserve fund for reimbursement to school food authorities.

(2) That a level price of \$16.94 (Zone 1) to dairy farmers under Article IV will assure that producers supplying the New England market receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) That the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) That the terms of the proposed amendments are approved by producers pursuant to a producer referendum as required by Article V. section 13.

List of Subjects in 7 CFR Part 1306

Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission amends 7 CFR Chapter XIII as follows:

PART 1306—COMPACT OVER-ORDER PRODUCER PRICE

1. The authority for part 1306 continues to read as follows:

Authority: 7 U.S.C. 7256.

2. In § 1306.3 redesignate paragraphs (d) through (f) as paragraphs (e) through (g) and add new paragraph (d) to read as follows:

§ 1306.3 Computation of basic over-order producer price.

* * * * *

(d) Beginning with the August 1998 pool, subtract from the total value computed pursuant to paragraph (a) of this section, an amount estimated by the Commission for the purpose of retaining a reserve for payment of obligations

pursuant to § 1301.13(e) of this chapter. Surplus funds from this reserve shall be returned to the producer-settlement fund.

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Dated: August 26, 1998.

Kenneth M. Becker,

Executive Director.

[FR Doc. 98-23427 Filed 8-31-98; 8:45 am]

BILLING CODE 1650-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 98N-0392]

Irradiation in the Production, Processing and Handling of Food; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of August 17, 1998 (63 FR 43875). The document amended FDA's regulations on labeling requirements for foods treated with irradiation. The document was published with some errors. This document corrects those errors.

EFFECTIVE DATE: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Harris, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 98-21998, appearing on page 43875, in the **Federal Register** of August 17, 1998, the following corrections are made: On page 43875, in the first column, under the document headings, "Docket" is corrected to read "Docket"; in the first column, under the "ADDRESSES" caption, beginning in the fourth line "12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857" is corrected to read "5630 Fishers Lane, rm. 1061, Rockville, MD 20852".

Dated: August 26, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98-23398 Filed 8-31-98; 8:45 am]

BILLING CODE 4160-01-F