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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1032

[DA-00-02]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; suspension.

SUMMARY: This document suspends certain sections of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32). The suspension removes a portion of the pool supply plant definition of Order 32. The action was requested by Prairie Farms Dairy, Inc. (Prairie Farms), and is necessary to prevent inefficient movements of milk and to ensure that producers historically associated with Order 32 will continue to have their milk priced and pooled under the order.

EFFECTIVE DATE: December 1, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932, e-mail address nicholas.memoli@usda.gov.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued November 23, 1999; published December 1, 1999 (64 FR 67201).

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they

present an irreconcilable conflict with this 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 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.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service 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 \$500,000, 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 \$500,000 per year criterion was used to establish a production guideline of 326,000 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.

During August 1999, 1,312 dairy farmers were producers under Order 32.

Of these producers, 1,277 producers (i.e., 97%) were considered small businesses. For the same month, 10 handlers were pooled under Order 32, of which three were considered small businesses.

The supply plant shipping standard is designed to ensure that the market's fluid needs will be met. The suspension will allow a supply plant operated by a cooperative association that delivered milk to Order 32 pool distributing plants during each of the months of September 1998 through August 1999 to meet the Order's pool supply plant standard by shipping at least 25 percent of its milk to pool distributing plants during the month of December 1999.

Marketing conditions in Order 32 indicate that there should be a sufficient amount of local milk available during the requested suspension period to supply the fluid needs of the market. The suspension should reduce or eliminate the need to make uneconomical and inefficient movements of milk simply to meet the Order's supply plant shipping standard. Thus, this rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area.

Statement of Consideration

This rule suspends a portion of the pool supply plant definition of the Southern Illinois-Eastern Missouri Federal milk marketing order for the month of December 1999. The action allows a plant operated by a cooperative association to qualify as a pool supply plant by shipping at least 25 percent of its milk to pool distributing plants during December 1999 if such plant delivered milk to Order 32 pool distributing plants during each of the immediately preceding months of September 1998 through August 1999. Without the suspension, such plants would have to meet the minimum 25 percent pool supply plant standard and at least 75 percent of the total producer milk marketed in that 12-month period would have to have been delivered or

physically received at pool distributing plants to qualify as a pool supply plant.

In Prairie Farms' letter requesting the suspension, the cooperative indicates that they currently operate processing plants in Carlinville, Olney, and Quincy, Illinois, and a multi-product plant in Granite City, Illinois, which are all regulated under the Southern Illinois-Eastern Missouri order. Prairie Farms notes that, from fiscal year 1998 to fiscal year 1999, milk processed at their Order 32 plants was approximately 6 percent higher and milk production of their member producers also increased about 8 percent. Based on current market trends and experiences in prior years, the cooperative expects an increase in milk production from its member producers during December 1999. Accordingly, it anticipates having a problem pooling all of its member producers' milk and the milk of its suppliers during the proposed suspension period.

Prairie Farms states that the suspension would provide some relief for December 1999 and prevent large amounts of milk from being disassociated with the order. The cooperative contends that the action is necessary to prevent inefficient movements of milk and to ensure that producers historically associated with Order 32 will continue to have their milk priced and pooled under the order. The cooperative points out that a portion of the supply plant provision was suspended in December 1994 and January 1995 for virtually the same reasons.

A notice of proposed rulemaking was published in the **Federal Register** on December 1, 1999 (64 FR 67201), concerning the proposed suspension. Interested persons were afforded an opportunity to file written data, views and arguments thereon. One comment letter, from Land O'Lakes, Inc., was received. Land O'Lakes, stated that it supported the proposed suspension and that their ability to keep their milk pooled under the Southern Illinois order would be jeopardized without it. No comments were received in opposition to the suspension.

The letter from Prairie Farms requesting this suspension requested a 2-month suspension period, from December 1999 through January 2000. This 2-month suspension period was supported in the data, views, and comments submitted by Prairie Farms and Land O'Lakes. However, on December 8, 1999, the Department issued an order implementing 11 new consolidated Federal orders on January 1, 2000. Accordingly, there is no reason to suspend provisions from the

Southern Illinois-Eastern Missouri order for the month of January 2000 because that order will cease to exist on January 1, 2000.

The suspension is found to be necessary for the purpose of assuring that producers' milk will not have to be moved in an uneconomic and inefficient manner to assure that producers whose milk has long been associated with the Order 32 marketing area will continue to benefit from pooling and pricing under the order. With the suspension, Order 32 supply plants will still be required to serve the Class I needs of the market. However, the suspension should reduce or eliminate the need to make expensive and inefficient movements of milk simply to meet the Order's supply plant shipping standard.

After consideration of all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the period of December 1, 1999, through December 31, 1999, the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1032.7(b), the words "and 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered" and the words "and physically received at".

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment was received in support of the action; none were received in opposition to it.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR part 1032 is amended as follows:

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

1. The authority citation for 7 CFR part 1032 continues to read as follows:

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

§ 1032.7 [Suspended in part]

2. In § 1032.7 paragraph (b), the words "and at least 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered" and the words "and physically received at" are suspended effective December 1, 1999, through December 31, 1999.

Dated: December 14, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99-32905 Filed 12-17-99; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 24

[Docket No. 99-20]

RIN 1557-AB69

Community Development Corporations, Community Development Projects, and Other Public Welfare Investments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is changing its regulation governing national bank investments that are designed primarily to promote the public welfare. This final rule simplifies the prior notice and self-certification requirements that apply to national banks' public welfare investments; permits eligible national banks to self-certify any public welfare investment; includes the receipt of Federal low-income housing tax credits by the project in which the investment is made (directly or through a fund that invests in such projects) as an additional way of demonstrating community support or participation for a public welfare investment; expands the types of investments that a national bank may self-certify by removing geographic restrictions; clarifies that the list of investments that were authorized