

# Rules and Regulations

Federal Register

Vol. 73, No. 171

Wednesday, September 3, 2008

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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### 7 CFR Part 613

#### Plant Materials Centers (PMC)

**AGENCY:** Natural Resources Conservation Service (NRCS), USDA.

**ACTION:** Final rule.

**SUMMARY:** Minor editorial changes are being made to clarify and update the existing regulation. These changes do not significantly affect part 613, however we present the entire part, as amended, for the convenience of the reader.

**DATES:** *Effective Date:* September 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Michael Hubbs, Director, Ecological Sciences Division, NRCS, USDA, Post Office Box 2890, Washington, DC 20013; telephone: (202) 720-2587.

**SUPPLEMENTARY INFORMATION:** Since part 613 became effective (72 FR 68743 December 6, 2007), several changes have occurred requiring the need to update it. These changes include renaming the National PMC in Beltsville, Maryland, to the Norman A. Berg National PMC and a correction in the location of the Louisiana PMC from Golden Meadows to Galliano. These changes are minor and do not significantly affect part 613. This rule sets forth general statements of Agency policy and internal Agency organization and management.

Therefore, pursuant to 5 U.S.C. 553, it is found that notice and public comment is not required. Further, in light of the minor changes, good cause is found for making this rule effective on publication in the **Federal Register**. Since this rule relates to internal Agency management, it is exempt from E.O. 12291. Finally, this action is not a rule as defined by Public Law 96-354,

the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### List of Subjects in 7 CFR Part 613

Plants (agriculture), Soil conservation.  
 ■ Accordingly, 7 CFR part 613 is revised to read as follows:

#### PART 613—PLANT MATERIALS CENTERS

Sec.

613.1 Purpose.

613.2 Policy and objectives.

613.3 NRCS responsibilities in plant materials.

613.4 Special production of plant materials.

613.5 PMCs.

**Authority:** 16 U.S.C. 590a-590f, 5908; 7 U.S.C. 1010-1011.

##### §613.1 Purpose.

This part provides NRCS policy on the operation of PMCs. The Centers have responsibilities for assembling, testing, releasing, and providing for the commercial production and use of plant materials and plant materials technology for programs of soil, water, and related resource conservation and development.

##### §613.2 Policy and objectives.

(a) It is NRCS policy to assemble, comparatively evaluate, release, and distribute for commercial increase new or improved plant materials and plant materials technology needed for broad programs of resource conservation and development for agriculture, wildlife, urban, recreation, and other land uses and environmental needs. It is the policy of NRCS to conduct plant materials work in cooperation with other agencies of the Department of Agriculture, such as the Agricultural Research Service, and with other Federal and State research agencies, including State agricultural experiment stations. The emphasis of the NRCS plant materials work is to find suitable plants to address conservation needs. In contrast, the emphasis of research agencies and organizations in plant development is to improve economically important crops. The NRCS program of testing and releasing new seed-propagated plant materials follows the guidelines in "Statement of Responsibilities and Policies Relating to the Development, Release, and Multiplication of Publicly Developed Varieties of Seed-Propagated Crops,"

which was adopted in June 1972, by Land Grant Colleges and interested Federal agencies. NRCS releases improved conservation plant materials requiring vegetative multiplication in ways appropriate for particular States and particular species by working with experiment stations, crop improvement associations, and other State and Federal agencies.

(b) The objective of the plant materials activity is to select or develop special and improved plants and techniques for their successful establishment and maintenance to solve conservation problems and needs related to:

(1) Controlling soil erosion on all lands;

(2) Conserving water;

(3) Protecting upstream watersheds;

(4) Reducing sediment movement into waterways and reservoirs through the stabilization of critical sediment sources, such as surface mined lands, highway slopes, recreation sites, and urban and industrial development areas;

(5) Stabilizing disposal areas for liquid and solid wastes;

(6) Improving plant diversity and lengthening the grazing season on dryland pastures and rangelands;

(7) Managing brush on mountain slopes with fire-retarding plant cover to reduce the possibility of fires that threaten life and property, or result in serious sediment sources;

(8) Improving the effectiveness of windbreaks and shelterbelts for reducing airborne sediment, controlling snow drifting, and preventing crop damage from wind erosion;

(9) Protecting streambank, pond, and lake waterlines from erosion by scouring and wave action;

(10) Improving wildlife food and cover, including threatened and endangered and pollinator species;

(11) Selecting special purpose plants to meet specific needs for environment protection and enhancement;

(12) Selecting plants that tolerate air pollution agents and toxic soil chemicals;

(13) Selecting plants that mitigate odor, Particulate Matter (PM)-10, and PM-2.5;

(14) Testing plants for biofuels and other energy-related activities; and

(15) Evaluating plants and techniques to combat invasive plant species and for reestablishment of desirable species after eradication.

**§ 613.3 NRCS responsibilities in plant materials.**

NRCS operates or enters into agreements with State universities or other State organizations to operate PMCs. NRCS also cooperates, both formally and informally, with other Federal, State, county, and nonprofit agencies or organizations on the selection of plants and evaluation of plant technology to increase the capabilities of PMCs. NRCS employs specialists for testing and selecting plant materials for conservation uses and the development of plant materials technology. NRCS' responsibilities are to: (a) Identify the resource conservation needs and cultural management methods for environmental protection and enhancement.

(b) Assemble and comparatively evaluate plant materials at PMCs and on sites where soil, climate, or other conditions differ significantly from those at the Centers.

(c) Make comparative field plantings for final testing of promising plants and techniques in cooperation with conservation districts and other interested cooperators.

(d) Release cooperatively improved conservation plants and maintain the breeder or foundation stocks in ways appropriate for particular State and plant species by working with experiment stations, crop improvement associations, and other State and Federal agencies.

(e) Produce limited amounts of foundation or foundation-quality seed and plants available for allocation to conservation districts, experiment stations, other Federal and State research agencies, State seed certifying organizations and directly to commercial growers (if other options do not exist) that will use the material to establish seed fields, seed orchards, or vegetative plantings for large-scale increase.

(f) Encourage and assist conservation districts, commercial seed producers, and commercial and State nurseries to produce needed plant materials for conservation uses.

(g) Encourage the use of improved plant materials and plant materials technology in resource conservation and environmental improvement programs.

**§ 613.4 Special production of plant materials.**

NRCS can produce plant materials in the quantity required to do a specific conservation job if this production will serve the public welfare and only if the plant materials are not available commercially. This function will be performed only until the plant materials

are available commercially. Specific production of plant materials by NRCS requires the approval of the Chief.

**§ 613.5 PMCs.**

(a) The Norman A. Berg National PMC. The Norman A. Berg National PMC at Beltsville, Maryland, focuses on national initiatives and provides coordination for plant materials work across all 50 States. In addition, the center provides plants and plant technology to address resource concerns in the mid-Atlantic region.

(b) Other PMCs. There are 26 other PMCs. Each serves several major land resource areas. NRCS operates 24 of these Centers, and 2 by cooperating agencies, as follows:

(1) Operated by NRCS: Tucson, AZ, Booneville, AR, Lockeford, CA, Brooksville, FL, Americus, GA, Molokai, HI, Aberdeen, ID, Manhattan, KS, Galliano, LA, East Lansing, MI, Coffeerville, MS, Elsberry, MO, Bridger, MT, Fallon, NV, Cape May Courthouse, NJ, Los Lunas, NM, Big Flats, NY, Bismarck, ND, Corvallis, OR, Kingsville, TX, Knox City, TX, Nacogdoches, TX, Pullman, WA, and Alderson, WV.

(2) Operated by cooperating agencies with financial and technical assistance from NRCS: Meeker, CO—White River and Douglas Creek Soil Conservation Districts with partial funding from NRCS.

(3) Operated by cooperating agencies with technical assistance from NRCS: Palmer, AK—State of Alaska, Department of Natural Resources.

Signed in Washington, DC, on August 20, 2008.

**Arlen L. Lancaster,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. E8-20401 Filed 9-2-08; 8:45 am]

**BILLING CODE 3410-16-P**

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 1000**

[Docket No. AMS-DA-07-0026; AO-14-A77]

**Milk in the Northeast and Other Marketing Areas; Delay of Effective Date**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule; delay of effective date.

**SUMMARY:** An interim final rule published July 31, 2008 amending the manufacturing cost allowances and the butterfat yield factor used in Class III

and Class IV product-price formulas applicable in all Federal milk marketing orders had an effective date of September 1, 2008. The effective date of the Interim Rule will now be October 1, 2008. The rule's effective date is delayed because a complaint to enjoin the implementation of the revised manufacturing allowances and butterfat yield factor was filed in the United States District Court for the District of Columbia. Delaying implementation allows sufficient time for a preliminary injunction hearing.

**DATES:** The effective date for the interim final rule published July 31, 2008 (73 FR 44617), is delayed from September 1, 2008, until October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Jack Rower, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement, Stop 0231—Room 2971-S, 1400 Independence Avenue, SW., Washington, DC 20250-0231, (202) 720-7183.

**SUPPLEMENTARY INFORMATION:****Background**

The regulations in 7 CFR part 1000 provide for, among other things, formulas that establish minimum Class III and Class IV milk prices in all Federal milk marketing orders. The Class III and Class IV formulas also set minimum Federal order prices for Class I and Class II nonfat solids and skim milk prices and pricing factors that are announced in advance of the month for which such prices will be effective. Minimum Class III and Class IV prices for any given month are announced for all Federal orders on or before the 5th day of the following month.

The Class III and Class IV product-price formulas use finished product prices for cheese, butter, nonfat dry milk and dry whey together with manufacturing allowances (commonly referred to as "make allowances") and yield factors to determine the minimum value of milk used to make the finished dairy products. Currently, the make allowances being used to compute all Federal order minimum class prices are those published in the **Federal Register** on December 29, 2006 (71 FR 78333). The current butterfat yield factor used in the Class III and Class IV product-pricing formulas is that published in the **Federal Register** on February 12, 2003 (65 FR 76832).

**Delay in Effective Date**

On July 31, 2008, an Interim Final Rule was published in the **Federal Register** (73 FR 44617) amending the make allowances and butterfat yield