

Done in Washington, DC, this 18th day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1005, 1006, 1007, 1030, 1032, 1033, 1124, 1126, and 1131

[Docket No. AMS-DA-13-0016; AO-14-A74, et al.; DA-06-01]

Milk in the Northeast and Other Marketing Areas; Termination of Proceeding on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates a proceeding that amended manufacturing allowances of the Class III and Class IV price formulas applicable to all Federal milk marketing orders on an interim basis. However, subsequent formal rulemaking proceedings have superseded these amendments and therefore, action on this proceeding is terminated.

DATES: April 29, 2013.

FOR FURTHER INFORMATION CONTACT: Erin C Taylor, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation and Enforcement, Stop 0231-Room 2971-S, 1400 Independence Avenue SW., Washington, DC 20250-0231, (202) 720-7311, email address: erin.taylor@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This administrative action 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.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601-612), 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 \$750,000, 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 \$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 farms, it should be an inclusive standard for most small dairy farms. 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.

For the month of January 2006, the month the initial public hearing was held, the milk of 52,570 dairy farms was pooled on the Federal order system. Of the total, 49,153 dairy farms, or 94 percent, were considered small businesses. During the same month, 536 plants were regulated by or reported their milk receipts to be pooled and price on a Federal order. Of the total, 286 plants, or 53 percent, were considered small businesses.

Because this action terminates this rulemaking proceeding without amending the present rules, the economic conditions of small entities are not changed as a result of this action. Also, this action does not change reporting, record keeping, or other compliance requirements.

Prior documents in this proceeding:
Notice of Hearing: Issued December 30, 2005; published January 5, 2006 (71 FR 545).

Notice of Intent to Reconvene Hearing: Issued June 23, 2006; published June 28, 2006 (71 FR 36715).

Notice to Reconvene Hearing: Issued August 31, 2006; published September 6, 2006 (71 FR 52502).

Tentative Final Decision: Issued November 20, 2006, Published November 22, 2006 (71 FR 67467).

Interim Final Rule: Issued December 26, 2006, Published December 29, 2006 (71 FR 78333).

Preliminary Statement

A national public hearing was held in this proceeding to consider a proposal to amend the Class III and Class IV milk price formula manufacturing allowances applicable to all Federal milk marketing orders. The interim amendments adopted as a result of this proceeding were based on the record of the first session of a public hearing held in Alexandria, Virginia, on January 24-27, 2006, pursuant to a notice of hearing

issued December 30, 2005; published January 5, 2006, (71 FR 545) and a second session of a public hearing held in Strongsville, Ohio, on September 14-15, 2006, pursuant to a reconvened hearing notice issued August 31, 2006; published September 6, 2006, (71 FR 52502). The hearings were held, 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 (7 CFR part 900).

Make Allowances

The make allowances adopted by the interim final rule in this proceeding—cheese: \$0.1682 per pound; butter: \$0.1202 per pound; nonfat dry milk (NFDm): \$0.1570 per pound; and dry whey: \$0.1956 per pound—amended section 1000.50, were approved by producers and became effective February 1, 2007 (71 FR 78333). These manufacturing allowances were subsequently amended through a separate rulemaking proceeding (72 FR 6179). An interim final rule published on July 31, 2008, (73 FR 44617), effective October 1, 2008, changed the make allowances to: cheese: \$0.2003 per pound; NFDm: \$0.1678 per pound; butter: \$0.1715 per pound; and dry whey: \$0.1991 per pound. Further, a request was received from proponents of the 2007 amendments requesting termination of this proceeding. Accordingly, it is determined that this proceeding should be terminated.

Termination of Proceeding

In view of the forgoing, it is hereby determined that the proceeding that resulted in make allowances adopted by the interim final rule issued December 26, 2006 and published in the December 29, 2006, **Federal Register** (71 FR 78333) should be and is hereby terminated.

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

Milk marketing orders.

Authority: 7 U.S.C. 601-674, and 7253.

Dated: April 22, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

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