

(ii) Multiply the pounds of butterfat received times the butterfat price for the month;

* * * * *

(b) * * *

(3) * * *

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

* * * * *

PART 1135—MILK IN THE WESTERN MARKETING AREA

1. Section 1135.60 is amended by revising paragraphs (c)(3), (d)(2) and (h) to read as follows:

§ 1135.60 Handler's value of milk.

* * * * *

(c) * * *

(3) Add an amount obtained by multiplying the pounds of butterfat in Class III by the butterfat price.

(d) * * *

(2) Add an amount obtained by multiplying the pounds of butterfat in Class IV by the butterfat price.

* * * * *

(h) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received and the Class III price by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1000.43(d) and § 1000.44(a)(3)(i) and the corresponding step of § 1000.44(b) and the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1000.44(a)(8) and the corresponding step of § 1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

* * * * *

2. Section 1135.61 is revised to read as follows:

§ 1135.61 Computation of producer price differential.

For each month the market administrator shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to § 1135.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler's report shall not be included in the computation for succeeding months

until the handler has made full payment of outstanding monthly obligations.

Subject to the conditions of this paragraph, the market administrator shall compute the producer price differential in the following manner:

(a) Combine into one total the values computed pursuant to § 1135.60 for all handlers required to file reports prescribed in § 1135.30;

(b) Subtract the total values obtained by multiplying each handler's total pounds of protein, other solids, and butterfat contained in the milk for which an obligation was computed pursuant to § 1135.60 by the protein price, the other solids price, and the butterfat price, respectively;

(c) Add an amount equal to the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1135.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1135.60(h); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be known as the producer price differential for the month.

3. Section 1135.62 is amended by revising paragraphs (e) and (g) to read as follows:

§ 1135.62 Announcement of producer prices.

* * * * *

(e) The butterfat price;

* * * * *

(g) The statistical uniform price for milk containing 3.5 percent butterfat computed by combining the Class III price and the producer price differential.

* * * * *

4. Section 1135.71 is amended by revising paragraph (b)(2) and removing and reserving paragraph (b)(3) to read as follows:

§ 1135.71 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) An amount obtained by multiplying the total pounds of protein, other solids, and butterfat contained in producer milk by the protein, other

solids, and butterfat prices respectively; and

(3) [Reserved]

* * * * *

5. Section 1135.73 is amended by revising paragraphs (a)(2)(ii) and (b)(3)(v) to read as follows:

§ 1135.73 Payments to producers and to cooperative associations.

(a) * * *

(2) * * *

(ii) The pounds of butterfat received times the butterfat price for the month;

* * * * *

(b) * * *

(3) * * *

(v) The pounds of butterfat in Class III and Class IV milk times the butterfat price;

* * * * *

Dated: February 6, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03-3442 Filed 2-11-03; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1032

[Docket No. AO-313-A44; DA-01-07]

Milk in the Central Marketing Area; Interim Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This order amends certain pooling provisions of the Central Federal milk order on an interim basis. This interim order amends the *Pool plant* provisions that: Establish lower but year-round supply plant performance standards; will not consider the volume of milk shipments to distributing plants regulated by another Federal milk order as a qualifying shipment for the Central order; exclude from receipts diverted milk made by a pool plant to another pool plant in determining pool plant diversion limits; and establish a "net shipments" provision for milk deliveries to distributing plants. For *Producer milk*, this interim order adopts amendments that: establish higher year-round diversion limits; will base diversion limits for supply plants on deliveries to Central order distributing plants; and eliminate the ability to simultaneously pool milk on the Central milk order and a State-operated milk

order that has marketwide pooling. More than the required number of producers in the Central marketing area have approved the issuance of the interim order as amended.

EFFECTIVE DATE: March 1, 2003.

FOR FURTHER INFORMATION CONTACT:

Gino M. Tosi, Marketing Specialist, Order Formulation and Enforcement, USDA/AMS/Dairy Programs, Stop 0231—Room 2968, 1400 Independence Avenue, Washington, DC 20250—0231, (202) 690—1366, e-mail: gino.tosi@usda.gov.

SUPPLEMENTARY INFORMATION: This administrative rule 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.

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the 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 Department 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 Department'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 interim 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 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.

Approximately 9,695 of the 10,108 dairy producers (farmers), or 95.9 percent, whose milk was pooled under the Central Federal milk order at the time of the hearing, November 2001, would meet the definition of small businesses. On the processing side, approximately 10 of the 56 milk plants associated with the Central milk order during November 2001 would qualify as “small businesses,” constituting about 17.9 percent of the total.

Based on these criteria, more than 95 percent of the producers would be considered as small businesses. The adoption of the proposed pooling standards serves to revise established criteria that determine those producers, producer milk, and plants that have a reasonable association with, and are consistently serving the fluid needs of, the Central milk marketing area and are not associated with other marketwide pools concerning the same milk. Criteria for pooling are established on the basis of performance levels that are considered adequate to meet the Class I fluid needs and, by doing so, determine those that are eligible to share in the revenue that arises from the classified pricing of milk. Criteria for pooling are established without regard to the size of any dairy industry organization or entity. The criteria established are applied in an identical fashion to both large and small businesses and do not have any different economic impact on small entities as opposed to large entities. Therefore, the proposed amendments will not have a significant economic impact on a substantial number of small entities.

Prior documents in this proceeding:

Notice of Hearing: Issued October 17, 2001; published October 23, 2001 (66 FR 53551).

Tentative Final Decision: Issued November 8, 2002; published November 19, 2002 (67 FR 69910).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Central order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the Central marketing order:

(a) *Findings upon the basis of the hearing record.* 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 and marketing orders (7 CFR part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) The Central order, as hereby amended on an interim basis, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order, as hereby amended on an interim basis, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The Central order, as hereby amended on an interim basis, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional Findings.* It is necessary and in the public interest to make these interim amendments to the Central order effective March 1, 2003. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the aforesaid marketing areas.

The interim amendments to these orders are known to handlers. The final decision containing the proposed amendments to these orders was issued on November 8, 2002.

The changes that result from these amendments will not require extensive

preparation or substantial alteration in the method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making these interim order amendments effective March 1, 2003. It would be contrary to the public interest to delay the effective date of these amendments for 30 days after publication in the **Federal Register**. (Sec. 553 (d)), Administrative Procedure Act, (5 U.S.C. 551–559)

(c) *Determinations*. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the specified marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this interim order amending the Central order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended;

(3) The issuance of the interim order amending the Central order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1032

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Central marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended on an interim basis, as follows:

The authority citation for 7 CFR Part 1032 reads as follows:

Authority: 7 U.S.C. 601–674.

PART 1032—MILK IN THE CENTRAL MARKETING AREA

1. Section 1032.7 is amended by:

- (a) Revising the introductory text of paragraph (c),
 - (b) Revising paragraph (c)(1),
 - (c) Revising paragraph (c)(2),
 - (d) Removing paragraph (c)(4) and redesignating paragraph (c)(5) as paragraph (c)(4); and
 - (e) Adding a new paragraph (c)(5).
- The revisions read as follows:

§ 1032.7 Pool plant.

* * * * *

(c) A supply plant from which the quantity of bulk fluid milk products

shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 20 percent during the months of August through February and 15 percent in all other months of the Grade A milk received from dairy farmers (except dairy farmers described in § 1032.12(b)) and from handlers described in § 1000.9(c), including milk diverted pursuant to § 1032.13, subject to the following conditions:

(1) Qualifying shipments may be made to plants described in paragraphs (a) or (b) of this section;

(2) The operator of a pool plant located in the marketing area may include as qualifying shipments milk delivered directly from producer's farms pursuant to § 1000.9(c) or § 1032.13(c). Handlers may not use shipments pursuant to § 1000.9(c) or § 1032.13(c) to qualify plants located outside the marketing area;

* * * * *

(5) Shipments used in determining qualifying percentages shall be milk transferred or diverted to and physically received by pool distributing plants, less any transfers or diversions of bulk fluid milk products from such pool distributing plants.

* * * * *

2. Section 1032.13 is amended by:

- (a) Revising paragraph (d)(2)
- (b) Redesignating paragraphs (d)(3), (d)(4), and (d)(5), as (d)(4), (d)(5), and (d)(6), respectively.

(c) Adding a new paragraph (d)(3)

(d) Adding a new paragraph (e).

The revisions read as follows:

§ 1032.13 Producer milk.

* * * * *

(d) * * *

(2) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 80 percent during the months of August through February, and not more than 85 percent during the months of March through July, provided that not less than 20 percent of such receipts in the months of August through February and 15 percent of the remaining months' receipts are delivered to plants described in § 1032.7(a) and (b);

(3) Receipts used in determining qualifying percentages shall be milk transferred to or diverted to or physically received by a plant described in § 1032.7(a) or (b) less any transfer or diversion of bulk fluid milk products from such plants.

* * * * *

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

* * * * *

Dated: February 6, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–3443 Filed 2–11–03; 8:45 am]

BILLING CODE 3410–02–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1512

Requirements for Low-Speed Electric Bicycles

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: Public Law 107–319, 116 Stat. 2776 (the Act), enacted December 4, 2002, subjects low-speed electric bicycles to the Commission's existing regulations at 16 CFR part 1512 and 16 CFR 1500.18(a)(12) for bicycles that are solely human powered. For purposes of this requirement, the Act defines a low-speed electric bicycle as “a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.” Public Law No. 107–319, section 1, 116 Stat. 2776 (2002). The Commission is issuing this immediately effective amendment to its requirements for bicycles at 16 CFR part 1512 to promptly inform the public of the newly enacted statutory requirement on low-speed electric bicycles.

DATES: This amendment is effective upon publication in the **Federal Register**, that is, on February 12, 2003.

FOR FURTHER INFORMATION CONTACT: Lowell Martin, Esq., Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7628; e-mail lmartin@cpsc.gov.

SUPPLEMENTARY INFORMATION: Public Law 107–319 (the Act), enacted December 4, 2002, amends the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, *et seq.*, by adding a new