

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

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

factor used in the Class III and Class IV product-pricing formulas.

On Friday, August 15, 2008, a lawsuit was filed in the District Court for the District of Columbia requesting that a temporary restraining order be issued by the court until a preliminary injunction hearing could be held as part of the pre-hearing process. USDA determined that it was in the best interest of the dairy industry to delay implementation of the Final Rule one month until October 1, 2008. Delaying implementation allows sufficient time for a preliminary injunction hearing to be held.

The revised manufacturing allowances and butterfat yield factor will be used in computing the October 2008 Federal order minimum advance Class I and Class II prices and pricing factors to be announced on September 19, 2008 unless a court order directs otherwise. The revised manufacturing allowances and butterfat yield factor of the Interim Final Rule will be used to compute minimum Federal order Class III and Class IV prices for October 2008 and in the announcement of advanced prices and pricing factors thereafter.

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

Dated: August 28, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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