

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113-79 inserted at end “Subsection (b) does not apply to the authority of the Secretary under this subsection.”

USE OF OPTION 1A AS PRICE STRUCTURE FOR CLASS I MILK UNDER CONSOLIDATED FEDERAL MILK MARKETING ORDERS

Pub. L. 106-113, div. B, §1000(a)(8) [§1], Nov. 29, 1999, 113 Stat. 1536, 1501A-517, provided that:

“(a) FINAL RULE DEFINED.—In this section, the term ‘final rule’ means the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897-48021), to comply with section 143 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7253).

“(b) IMPLEMENTATION OF FINAL RULE FOR MILK ORDER REFORM.—Subject to subsection (c), the final rule shall take effect, and be implemented by the Secretary of Agriculture, on the first day of the first month beginning at least 30 days after the date of the enactment of this Act [Nov. 29, 1999].

“(c) USE OF OPTION 1A FOR PRICING CLASS I MILK.—In lieu of the Class I price differentials specified in the final rule, the Secretary of Agriculture shall price fluid or Class I milk under the Federal milk marketing orders using the Class I price differentials identified as Option 1A ‘Location-Specific Differentials Analysis’ in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4809), except that the Secretary shall include the corrections and modifications to such Class I differentials made by the Secretary through April 2, 1999.

“(d) EFFECT OF PRIOR ANNOUNCEMENT OF MINIMUM PRICES.—If the Secretary of Agriculture announces minimum prices for milk under Federal milk marketing orders pursuant to section 1000.50 of title 7, Code of Federal Regulations, before the effective date specified in subsection (b), the minimum prices so announced before that date shall be the only applicable minimum prices under Federal milk marketing orders for the month or months for which the prices have been announced.

“(e) IMPLEMENTATION OF REQUIREMENT.—The implementation of the final rule, as modified by subsection (c), shall not be subject to any of the following:

“(1) The notice and hearing requirements of section 8c(3) of the Agricultural Adjustment Act (7 U.S.C. 608c(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the notice and comment provisions of section 553 of title 5, United States Code.

“(2) A referendum conducted by the Secretary of Agriculture pursuant to subsections (17) or (19) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

“(3) The Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

“(4) Chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act).

“(5) Any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this Act [Nov. 29, 1999].”

FURTHER RULEMAKING TO DEVELOP PRICING METHODS FOR CLASS III AND CLASS IV MILK UNDER MARKETING ORDERS

Pub. L. 106-113, div. B, §1000(a)(8) [§2], Nov. 29, 1999, 113 Stat. 1536, 1501A-518, provided that:

“(a) CONGRESSIONAL FINDING.—The Class III and Class IV milk pricing formulas included in the final decision for the consolidation and reform of Federal milk marketing orders, as published in the Federal Register on April 2, 1999 (64 Fed. Reg. 16025), do not adequately reflect public comment on the original proposed rule pub-

lished in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802), and are sufficiently different from the proposed rule and any comments submitted with regard to the proposed rule that further emergency rulemaking is merited.

“(b) RULEMAKING REQUIRED.—The Secretary of Agriculture shall conduct rulemaking, on the record after an opportunity for an agency hearing, to reconsider the Class III and Class IV milk pricing formulas included in the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897-48021).

“(c) TIME PERIOD FOR RULEMAKING.—On December 1, 2000, the Secretary of Agriculture shall publish in the Federal Register a final decision on the Class III and Class IV milk pricing formulas. The resulting formulas shall take effect, and be implemented by the Secretary, on January 1, 2001.

“(d) EFFECT OF COURT ORDER.—The actions authorized by subsections (b) and (c) are intended to ensure the timely publication and implementation of new pricing formulas for Class III and Class IV milk. In the event that the Secretary of Agriculture is enjoined or otherwise restrained by a court order from implementing a final decision within the time period specified in subsection (c), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in subsection (c) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

“(e) FAILURE TO TIMELY COMPLETE RULEMAKING.—If the Secretary of Agriculture fails to implement new Class III and Class IV milk pricing formulas within the time period required under subsection (c) (plus any additional period provided under subsection (d)), the Secretary may not assess or collect assessments from milk producers or handlers under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, for marketing order administration and services provided under such section after the end of that period until the pricing formulas are implemented. The Secretary may not reduce the level of services provided under that section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

“(f) IMPLEMENTATION OF REQUIREMENT.—The implementation of the final decision on new Class III and Class IV milk pricing formulas shall not be subject to congressional review under chapter 8 of title 5, United States Code.”

§ 7254. Effect on fluid milk standards in State of California

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

(Pub. L. 104-127, title I, §144, Apr. 4, 1996, 110 Stat. 917.)

§ 7255. Milk manufacturing marketing adjustment**(a) Maximum allowances established**

No State shall provide for a manufacturing allowance for the processing of milk in excess of—