

## 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—

(1) \$1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) \$1.80 per hundredweight of milk for milk manufactured into cheese.

**(b) “Manufacturing allowance” defined**

In this section, the term “manufacturing allowance” means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State’s yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State’s yield and product price formulas exceeds the class price for the milk used to produce cheese.

**(c) Effect of violation**

If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

**(d) Effective date; implementation**

This section (other than subsection (e))<sup>1</sup> shall be effective during the period beginning on the first day of the first month beginning after April 4, 1996, and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(Pub. L. 104-127, title I, §145, Apr. 4, 1996, 110 Stat. 917.)

CODIFICATION

Section is comprised of section 145 of Pub. L. 104-127. Subsec. (e) of section 145 of Pub. L. 104-127 repealed section 1446e-1 of this title and enacted provisions set out as a note under section 1446e-1 of this title.

**§ 7256. Northeast Interstate Dairy Compact**

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate<sup>1</sup> Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

**(1) Finding of compelling public interest**

Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of April 4, 1996, the authority to

implement the Northeast Interstate Dairy Compact.

**(2) Limitation on manufacturing price**

The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 608c of this title.

**(3) Duration**

Consent for the Northeast Interstate Dairy Compact shall terminate on September 30, 2001.

**(4) Additional States**

Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after April 4, 1996.

**(5) Compensation of Commodity Credit Corporation**

Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

**(6) Milk marketing order Administrator**

At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 608c(5)<sup>2</sup> of this title shall provide technical assistance to the Compact Commission and be compensated for that assistance.

**(7) Further conditions**

The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Federal milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

<sup>1</sup> See Codification note below.

<sup>1</sup> So in original. Probably should be preceded by “of”.

<sup>2</sup> See References in Text note below.