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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

RIN 0560-AE57

Dairy Indemnity Payment Program

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The authority to operate the Dairy Indemnity Payment Program (DIPP) is contingent upon the appropriation of funds. Funds were recently appropriated. This rule extends the authority to operate this program until the funds are expended.

The DIPP indemnifies dairy farmers and manufacturers for losses suffered with respect to milk and milk products, through no fault of their own.

EFFECTIVE DATE: April 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Raellen Erickson, Agricultural Program Specialist, Price Support Division, FSA, USDA, Ag Box 0512, P.O. Box 2415, Washington, D. C. 20013-2415, at (202) 720-7320.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Dairy Indemnity Payments, Number 10.053.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Farm Service Agency is not required by

5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This rule has been reviewed pursuant to Executive Order 12778. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that the terms of the regulations prevail. The provisions of this rule are not retroactive. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

The amendments to 7 CFR part 760 set forth in this final rule do not contain additional information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35. Existing information collections were approved by OMB and assigned OMB Control Number 0560-0116.

Background

The Dairy Indemnity Payment Program was originally authorized by section 331 of the Economic Opportunity Act of 1964. The statutory authority for the program was extended several times. Most recently, funds were appropriated for this program by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 ("the Act"), P.L. 104-37, 109 Stat. 310, which authorizes the program to be carried out until all available funds have been expended. The objective of the

program is to indemnify dairy farmers and manufacturers of dairy products who, through no fault of their own, suffer income losses with respect to milk or milk products removed from commercial markets because such milk or milk products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses with respect to milk required to be removed from commercial markets due to residues of chemicals or toxic substances or contamination by nuclear radiation or fallout. The regulations governing the program (7 CFR 760.1-760.34) authorized the operation of the program through September 30, 1995. Because the Act mandates that the program be carried out until the appropriated funds are expended, the ending date for the program is being deleted from the regulation. The beginning dates for the program are also being deleted since they are no longer necessary. Since the only purpose of this final rule is to make a technical amendment to the regulations to extend the Dairy Indemnity Payment Program in order to conform to the statute, it has been determined that no further public rulemaking is required. Therefore, these regulations shall become effective upon date of publication in the Federal Register.

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Pesticides and pests.

Accordingly, the regulations at 7 CFR Part 760 are amended as follows:

Subpart Dairy Indemnity Payment Program

1. The authority citation for this subpart is revised to read as follows:

Authority: Dairy Indemnity Program, P.L. 104-37, 109 Stat. 310.

2. Section 760.2 is amended by revising paragraphs (k)(1), (2), (l) and (o) to read as follows:

§ 760.2 Definitions.

* * * * *

(k) * * *

(1) Pursuant to the direction of a public agency because of the detection of pesticide residues in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency, or

(2) Pursuant to the direction of a public agency because of the detection of other residues of chemicals or toxic substances residues, or contamination from nuclear radiation or fallout in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(l) *Affected manufacturer* means a person who manufactures dairy products which are removed from the commercial market pursuant to the direction of a public agency because of the detection of pesticide residue in such dairy products by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

* * * * *

(o) *Application period* means any period during which an affected farmer's whole milk is removed from the commercial market pursuant to direction of a public agency for a reason specified in paragraph (k) of this section and for which application for payment is made.

* * * * *

Signed in Washington, DC, on April 11, 1996.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 96-9460 Filed 4-25-96; 8:45 am]

BILLING CODE 3410-05-P

Grain Inspection, Packers and Stockyards Administration

7 CFR Parts 800 and 810

RIN 0580-AA14

United States Standards for Barley

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Barley to: modify the classification system of barley to better reflect current marketing practices by establishing two classes, Malting barley and Barley; revise procedures to permit applicants the option of requesting either the malting standards or barley standards for malting types; revise the standards for Two-rowed Malting barley by removing the "U.S. No 1 Choice" grade designation; amend the definition for suitable malting type to include other malting varieties used by private malting and brewing companies; revise the dockage certification procedure by reporting results in half and whole percent with a fraction less than one-

half percent being disregarded; amend the definition of thins to require the use of a single sieve ($5/64 \times 3/4$ slotted-hole) only in the class Barley; and eliminate the numerical grade restriction for badly stained and materially weathered from the standards. In addition, GIPSA is amending the breakpoint for dockage and establishing new breakpoints for malting barley to conform with standard changes.

The objective of these revisions is to ensure that the barley standards are serving their intended purpose to facilitate the marketing of barley.

EFFECTIVE DATE: June 1, 1996.

FOR FURTHER INFORMATION CONTACT:

George Wollam, USDA, GIPSA, Room 0623, South Building, P. O. Box 96454, Washington, D.C. 20090-6454; telephone (202) 720-0292; FAX (202) 720-4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Department is issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. The United States Grain Standards Act (Act) provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Information Collection Requirements

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection

requirements contained in the rule to be amended have been previously approved by the Office of Management and Budget under control number 0580-0013.

Background

During December 1991, the Federal Grain Inspection Service (FGIS), which is now part of GIPSA, distributed a discussion paper concerning the U.S. Standards for Barley. This paper addressed several issues relating to the standards and served as a starting point for discussions with producers, processors, trade associations, maltsters, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. FGIS received positive feedback. In addition, FGIS reviewed the barley discussion paper with the FGIS Advisory Committee and the Grain Quality Workshops and considered ideas received during the normal course of business, recommendations from internal management and program review, and various other sources.

In the March 22, 1995, Federal Register (60 FR 15075), GIPSA published a proposal to revise the U.S. Standards for Barley by: (1) Modifying the classification system of barley to better reflect current marketing practices by establishing two classes, Malting barley and Barley; (2) revising procedures to permit applicants the option of requesting either the malting standards or barley standards for malting types; (3) revising the standards for Two-rowed Malting barley by removing the "U.S. No 1 Choice" grade designation and combining the grading factors and limits for two- and six-rowed malting types onto a single grade chart; (4) amending the definition for suitable malting type to include other proprietary malting varieties used by private malting and brewing companies; (5) revising the dockage certification procedure by reporting results in half and whole percent with a fraction less than one-half percent being disregarded; (6) amending the definition of thins to require the use of a single sieve ($5/64 \times 3/4$ slotted-hole) only in the proposed class Barley and remove the grading limits from the standards; however, the level of thins will continue to be reported on the inspection certificate; (7) revising the standards by removing the grading limits for damaged kernels, heat-damaged kernels, and foreign material in the proposed class Barley; and (8) eliminating the numerical grade restriction for badly stained and materially weathered from the standards. GIPSA further proposed to