shipments shall be calculated by adding the total volume of shipments for the seasons they did ship red seedless grapefruit, divide by the number of seasons, divide further by 33. New handlers with no record of shipments could ship size 48 and 56 red seedless grapefruit as a percentage of total shipments equal to the percentage applied to other handlers' average week; once such handlers have recorded shipments, their average week shall be calculated as an average of total shipments for the weeks they have shipped red seedless grapefruit during the current season. When used in the regulation of red seedless grapefruit, the term season means the weeks beginning the third Monday in September and ending the first Sunday in the following May. The term regulation period means the 11 weeks beginning the third Monday in September and ending the first Sunday in December of the current season.

(b) When a size limitation restricts the shipment of a portion of sizes 48 and 56 red seedless grapefruit during a particular week as provided in § 905.52, the committee shall compute the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by each handler by multiplying the handler's calculated average week shipments of such grapefruit by the percentage established by regulation for red seedless grapefruit for that week.

(c) The committee shall notify each handler of the quantity of size 48 and 56 red seedless grapefruit such handler may handle during a particular week.

(d) During any regulation week for which the Secretary has fixed the percentage of sizes 48 and 56 red seedless grapefruit, any person who has received an allotment may handle, in addition to their total allotment available, an amount of size 48 and 56 red seedless grapefruit up to 10 percent greater than their allotment. The quantity of the overshipment shall be deducted from the handler's allotment for the following week. Overshipments will not be allowed during week 11. If the handler fails to use his or her entire allotment, the under shipment is not carried forward to the following week.

(e) Any handler may transfer or loan any or all of their shipping allotment (excluding the overshipment allowance) of size 48 and 56 red seedless grapefruit to any other handler. Each handler party to such transfer or loan shall promptly notify the committee so the proper adjustment of records may be made. In each case, the committee shall confirm in writing all such transactions, prior to the following week, to the handlers involved. The committee may act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotments.

Dated: December 24, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–33268 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Parts 1004, 1005, 1007, 1011, and 1046

[DA–96–15]

Milk in the Middle Atlantic, Carolina, Southeast, Tennessee Valley and Louisville-Lexington-Evansville Marketing Areas; Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document terminates the base-excess payment plan provisions of the Middle Atlantic, Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk marketing orders due to the expiration of legislative authority to incorporate base-excess plans in Federal milk marketing orders on December 31, 1996.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address Nicholas__X__Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this 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 Secretary 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 Secretary'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.*), as amended, the Agricultural Marketing Service has considered the economic impact of this action on small entities and believes that this rule could 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 $500,000, 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 $500,000 per year criterion was used to establish a production guideline of 326,000 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.

This rule terminates the base-excess plan provisions of five Federal milk orders. Producers with earned base will no longer receive base prices as in the past, but will be paid at least the uniform price throughout the year for their hundredweight of milk.

Under a base-excess payment plan, a producer is paid a ''base price'' for ''base milk'' and an ''excess price'' for production in excess of base milk. During the base-paying period of a base-excess plan, base prices are higher than the uniform prices computed for those months, while the excess prices are below the uniform prices. Using a representative period of May 1996, the difference between the base and uniform prices in the five orders was not greater than $0.26/cwt., while the difference between the uniform and excess prices ranged from $0.45 to $2.81/cwt.

The economic impact of the termination of base-excess plans is likely to be threefold. First, for those producers who have been most successful in shifting their herd's production from the spring to the fall, there will be a reduction in total revenue. The loss in revenue would be determined by multiplying the producer's total hundredweight of milk by the uniform price and subtracting that figure from the producer's base milk at the estimated base price plus the excess milk at the estimated excess price. This calculation would have to be computed for each month of the base-paying period. On the other hand, for those producers who have made no effort to shift production from the spring to the fall, there is likely to be an economic windfall at the difference between the uniform price multiplied by their total production and what the producer's milk would have earned using base and excess prices.

A second economic impact for producers under Orders 5, 7, 11, and 46 will be experienced by those producers who were planning to go out of business and sell their base at the end of the base-building period, but before the start of the base-paying period. These producers will lose the amount of money that they could have realized by selling their base. For example, during the 1995 base-building period, 5500 producers earned base in the Southeast market. The average daily base for a single producer was 2,933 lbs. Based on the average price per pound for base in 1995 ($1.62/lb. based on figures obtained from the Market Administrator's office), an average producer in the Southeast could have obtained $4,751.46 from the sale of such base in 1997.

The final effect of the base-excess plan termination is impossible to measure in advance of the facts. Under the base and excess plans in Orders 5, 7, 11 and 46, dairy farmers who were not on a market during the base-building period are discouraged from pooling their milk on the market during the base-paying period because they would only receive the excess price for their milk. Without a base and excess plan, however, there would be no such disincentive. Theoretically, therefore, it is possible that producers who are not normally associated with these markets will become associated with them during the flush production months to take advantage of a price difference between these generally deficit, high Class I utilization markets and the producers' normal, lower utilization, lower-priced market. To what extent the attachment of this additional milk will lower the uniform price in the 5 base-excess plan markets cannot be determined at this time.

Regardless of the possible economic effects which may result from termination of seasonal base plans upon small entities, there is no alternative to this termination action since the underlying statutory authority expires on December 31, 1996.

In considering the impact of this action on small businesses, the termination of seasonal base plans will also cause a reduction in paperwork. Base-excess plans generate a large volume of paperwork for the Market Administrator's office, as well as for cooperative associations and handlers' with non-member supplies. Termination of such plans will place less of a regulatory burden on those responsible for recordkeeping, administration, and compliance with these provisions.

Statement of Consideration

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the orders regulating the handling of milk in the Middle Atlantic, Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville marketing areas.

It is determined that notice of proposed rulemaking and public procedure thereon is impracticable, unnecessary and contrary to the public interest. The expiration of authority to incorporate seasonal base plans in Federal milk marketing orders on December 31, 1996, necessitates the termination of base-excess plan provisions.

The Department received several letters requesting that seasonal base plans be suspended, rather than terminated. While the Department considered suspending the provisions, we concluded that an order provision cannot be suspended once the underlying legislative authority for that provision has expired. Nevertheless, should Congress pass future legislation authorizing seasonal base plans, it could provide for an expedited procedure to reinstate the order provisions.

After consideration of all relevant material, and other available information, it is hereby found and determined that effective January 1, 1997, the provisions of each of the orders specified below do not tend to effectuate the declared policy of the Act:

List of Subjects in 7 CFR Parts 1004, 1005, 1007, 1011, and 1046

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR Parts 1004, 1005, 1007, 1011, and 1046 are amended as follows.

1. The authority citation for 7 CFR Parts 1004, 1005, 1007, 1011, and 1046 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

§ 1004.61 [Amended]

2. In § 1004.61, paragraph (b) is removed and reserved, and the section heading and introductory text are revised to read as follows:

§ 1004.61 Computation of weighted average differential price and producer nonfat milk solids price.

For each month the market administrator shall compute a ''weighted average differential price'' and a ''producer nonfat milk solids price'', as follows:

* * * * *

§ 1004.63 [Amended]

3. In § 1004.63, the words ''the weighted average differential price for base milk and'' are removed, and the section heading is revised to read as follows:

§ 1004.63 Announcement of weighted average differential price, nonfat milk solids price and producer nonfat milk solids price.

* * * * *

§ 1004.73 [Amended]

4. In § 1004.73, paragraph (a) introductory text is amended by removing the word ''base'', paragraph (a)(1) is amended by removing the phrase ''for base milk computed pursuant to § 1004.61(b)'' and the word ''base'', and paragraph (b) is removed.

§ 1004.75 [Amended]

5. In § 1004.75, paragraph (a), the words ''for base milk computed pursuant to § 1004.61(b)'' are removed.

§§ 1004.90, 1004.91, 1004.92, 1004.93, 1004.94 and 1004.95 [Removed]

6. § 1004.90 and the undesignated centerheading preceding it, and §§ 1004.91 through 1004.95 are removed.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

§ 1005.32 [Amended]

7. In § 1005.32, paragraph (a) is removed and reserved.

§ 1005.61 [Amended]

8. In § 1005.61, paragraph (a) introductory text is amended by removing the words ''of June through January'', paragraph (a)(6) is amended by removing the words ''for the months of June through January'', paragraph (b)

is removed, and the section heading is revised to read as follows:

§ 1005.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1005.62 [Amended]

9. In § 1005.62 paragraph (b) is revised to read as follows:

§ 1005.62 Announcement of uniform price and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the uniform price pursuant to § 1005.61 for such month.

§ 1005.71 [Amended]

10. In § 1005.71, paragraph (a)(2)(i), the letter ''(s)'' at the end of the word ''price(s)'' is removed.

§ 1005.73 [Amended]

11. In § 1005.73, paragraph (a)(2) introductory text is amended by removing the letter ''(s)'' at the end of the word ''price(s)'' and the words ''or base milk and excess milk'', paragraph (c)(2) is amended by removing the word ''appropriate'' and the letter ''(s)'' at the end of the word ''price(s)'', paragraphs (d)(4) and (5) are amended by removing the letter ''(s)'' at the end of the word ''rate(s)'' everywhere it appears, and paragraph (d)(3) is removed and reserved.

§ 1005.74 [Amended]

12. § 1005.74 is amended by removing the letter ''(s)'' at the end of the word ''price(s)''.

§ 1005.75 [Amended]

13. In § 1005.75, paragraph (a) is amended by removing the words ''and the uniform price for base milk''.

§§ 1005.90, 1005.91, 1005.92, 1005.93, and 1005.94 [Removed]

14. § 1005.90 and the undesignated centerheading preceding it, and §§ 1005.91 through 1005.94 are removed.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

§ 1007.32 [Amended]

15. In § 1007.32, paragraph (a) is removed and reserved.

§ 1007.61 [Amended]

16. In § 1007.61, paragraph (a) introductory text is amended by removing the words ''of June through January'', paragraph (a)(6) is amended by removing the words ''for the months of June through January'', paragraph (b) is removed, and the section heading is revised to read as follows:

§ 1007.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1007.62 [Amended]

17. In § 1007.62, paragraph (b) is amended by removing the word ''applicable'' and the letter ''(s)'' at the end of the word ''price(s)''.

§ 1007.71 [Amended]

18. In § 1007.71, paragraph (a)(2)(i) is amended by removing the letter ''(s)'' at the end of the word ''price(s)''.

§ 1007.73 [Amended]

19. In § 1007.73, paragraph (a)(1) is amended by removing the phrase ''or if the producer had no established base upon which to receive payments during the base paying months of February through May,'', paragraph (a)(2) introductory text is amended by removing the letter ''(s)'' at the end of the word ''price(s)'' and the words ''or base milk and excess milk'', paragraph (d)(2) is amended by removing the word ''appropriate'' and the letter ''(s)'' at the end of the word ''price(s)'', paragraphs (f)(4) and (5) are amended by removing the letter ''(s)'' at the end of the word ''rate(s)'' and the word ''(are)'' wherever they appear, and paragraph (f)(3) is removed and reserved.

§ 1007.74 [Amended]

20. In § 1007.74, the letter ''s'' at the end of the word ''prices'' and the words ''for base and excess milk'' are removed.

§ 1007.75 [Amended]

21. In § 1007.75, paragraph (a) is amended by removing the phrase ''and the uniform price for base milk''.

§§ 1007.90, 1007.91, 1007.92, 1007.93, and 1007.94 [Removed]

22. § 1007.90 and the undesignated centerheading preceding it, and §§ 1007.91 through 1007.94 are removed.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

§ 1011.32 [Amended]

23. In § 1011.32, paragraph (a) is removed and reserved.

§ 1011.61 [Amended]

24. In § 1011.61, paragraph (a) introductory text is amended by removing the words ''of July through February'', paragraph (b) is removed, and the section heading is revised to read as follows:

§ 1011.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1011.62 [Amended]

25. In § 1011.62 paragraph (b) is amended by removing the word ''applicable'' and the letter ''s'' at the end of the word ''prices''.

§ 1011.71 [Amended]

26. In § 1011.71, paragraph (a)(2)(i) is amended by removing the letter ''s'' at the end of the word ''prices''.

§ 1011.73 [Amended]

27. In § 1011.73, paragraph (a)(2) introductory text is amended by removing the phrase ''or base milk and excess milk'' and the letter ''(s)'' at the end of the word ''price(s)'', paragraph (c)(2) is amended by removing the word ''appropriate'' and the letter ''(s)'' at the end of the word ''price(s)'', paragraphs (d) (4) and (5) are amended by removing the letter ''(s)'' at the end of the word ''rate(s)'' wherever it appears, and paragraph (d)(3) is removed and reserved.

§ 1011.74 [Amended]

28. In § 1011.74, the letter ''(s)'' at the end of the word ''price(s)'' is removed.

§ 1011.75 [Amended]

29. In § 1011.75, paragraph (a) is amended by removing the words ''and the uniform price for base milk''.

§§ 1011.90, 1011.91, 1011.92, 1011.93, and 1011.94 [Removed]

30. § 1011.90 and the undesignated centerheading preceding it, and §§ 1011.91 through 1011.94 are removed.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

§ 1046.32 [Amended]

31. In § 1046.32, paragraph (d) is removed and reserved.

§ 1046.61 [Amended]

32. In § 1046.61, paragraph (a) introductory text is amended by removing the words ''of July through February'', paragraph (b) is removed, and the section heading is revised to read as follows:

§ 1046.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1046.62 [Amended]

33. In § 1046.62, paragraph (b) is amended by removing the word ''applicable'' and the letter ''(s)'' at the end of the word ''price(s)''.

§ 1046.71 [Amended]

34. In § 1046.71, paragraph (a)(2)(i) is amended by removing the word

''applicable'' and the letter ''(s)'' at the end of the word ''price(s)''.

§ 1046.73 [Amended]

35. In § 1046.73, the last sentence in paragraph (a) is removed, paragraph (b) introductory text is amended by removing the letter ''(s)'' at the end of the word ''price(s)'' and the words ''or base milk and excess milk'', paragraphs (d) (4) and (5) are amended by removing the letter ''(s)'' at the end of the word ''rate(s)'' everywhere it appears, and paragraph (d)(3) is removed and reserved.

§ 1046.74 [Amended]

36. In § 1046.74, the letter ''(s)'' at the end of the word ''price(s)'' is removed.

§ 1046.75 [Amended]

37. In § 1046.75, paragraph (a) is amended by removing the phrase ''and the uniform price for base milk''.

§§ 1046.90, 1046.91, 1046.92, 1046.93, and 1046.94 [Removed]

38. § 1046.90 and the undesignated centerheading preceding it, and §§ 1046.91 through 1046.94 are removed.

Dated: December 23, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–33000 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

[INS. No. 1827–96]

RIN 1115–AE69

Administrative Deportation Procedures for Aliens Convicted of Aggravated Felonies Who Are Not Lawful Permanent Residents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: In accordance with section 442(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), this final rule adds a new paragraph to the administrative deportation proceedings regulation. The new paragraph explains how the Immigration and Naturalization Service (Service) will conduct administrative deportation proceedings without immigration court hearings for certain aliens convicted of aggravated felonies in light of two recent statutory changes. The Service is promulgating this final rule to comply with the statutory requirement that the Service publish an implementing regulation by January 1, 1997. The final rule states that the Service will continue to process aliens under the current regulation until March 3, 1997, and will suspend administrative deportation proceedings from March 3, 1997, until the effective date of the implementing regulations for the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

EFFECTIVE DATE: March 3, 1997.

FOR FURTHER INFORMATION CONTACT: Leonard C. Loveless, Detention and Deportation Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone (202) 514–2865.

SUPPLEMENTARY INFORMATION: Section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, created a new section 242A(b) of the Act, 8 U.S.C. 1252a(b), to provide for the deportation without an immigration court hearing of certain aliens convicted of aggravated felonies. On August 24, 1995, the Service published a final rule at 60 FR 43954 to create 8 C.F.R. 242.25 that implemented section 242A(b) of the Act. Section 442 of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) modified section 242A(b) and required that the Attorney General publish implementing regulations by January 1, 1997, to take effect 60 days after publication.

On September 30, 1996, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208. Section 304(c) of the IIRIRA, effective April 1, 1997, further amended administrative deportation proceedings by nullifying some of the amendments made by the AEDPA and by renumbering the statutory section from section 242A(b) of the Act to section 238(b).

The AEDPA amendments would require significant changes in operational procedures and forms that are not worthwhile, given that those amendments will be effective only for approximately 1 month. For example, the AEDPA added the requirement that administrative deportation proceedings be ''conducted in, or translated for the alien into, a language the alien understands.'' This provision would require the Service to translate all documents used in the proceedings, rather than only the Form I–851, Notice of Intent to Issue Final Administrative Deportation Order. (Current translation and explanation requirements are set forth in 8 CFR 242.25(b)(2)(iv)). Since the IIRIRA has eliminated the statutory translation requirement, it would be unduly burdensome to implement this requirement for 1 month.

Accordingly, as a policy matter, the Service has determined that these implementing regulations will simply announce a suspension of the operation of administrative deportation proceedings, which includes the issuance of both Form I–851 and Form I–851A, Final Administrative Order of Deportation, until the implementing regulations for the IIRIRA, under separate notice of proposed rulemaking, are effective. The Service will continue to process aliens under the current version of 8 CFR 242.25 until March 3, 1997. From that date until the IIRIRA amendments to administrative deportation take effect, the Service will cease all administrative deportation proceedings. During that period, aliens otherwise amenable to administrative deportation will be placed instead in regular deportation proceedings before an immigration judge. This change does not affect the enforceability of administrative deportation orders previously entered.

The Service has determined that the publication of this rule as a final rule is based upon the ''good cause'' exceptions found at 5 U.S.C. 553(b)(3)(B). The Service has determined that public notice and comment on this rule is impracticable because of the January 1, 1997, statutory deadline for publishing a final rule. In addition, public notice and comment is unnecessary because the final rule makes no change that affects an individual's rights. It simply continues until March 3, 1997, the existing rules governing administration deportation. On that date, the Service will suspend administrative deportation proceedings, and proceed under existing regulations governing regular deportation proceedings. Since there will be public notice and comment on the IIRIRA amendments to administrative deportation proceedings, public notice and comment on this final rule is unnecessary.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because the affected parties are individual aliens who have been ordered deported from the United States.