Corrections

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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1000, 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138 and 1139

[DA–97–12]

Milk in the New England and Other Marketing Areas; Proposed Rule and Opportunity to File Comments, Including Written Exceptions, on Proposed Amendments to Marketing Agreements and Orders

Correction

In proposed rule document 98–1758, beginning on page 4802 in the issue of Friday, January 30, 1998, page 4954 was inadvertently omitted. The online version is correct. Page 4954 should read as follows:

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administrators be given the authority to adjust shipping requirements in all orders.

A number of comments addressed the issue of where a plant should be regulated and whether there should be a ''lock-in'' provision which would keep a distributing plant regulated under the order where it is located rather than where it may have the most sales. SDFA supports the adoption of lock-in provisions in the consolidated southeast orders. Prairie Farms Dairy, Inc. states that pool distributing plants should be regulated where located rather than where route disposition occurs. Another cooperative association, Milk Marketing Inc. (MMI), states that competition for local milk supply and a competitive pay price with neighboring plants is much more important to both producers and processors than a price that is competitive with other plants that compete for sales in a given area. Therefore, MMI recommends regulating a distributing plant in the market where it is located rather than on the location of its sales. MMI contends that the Federal milk order program should be concerned with attracting milk to a plant, not the retail location. The cooperative states that plants in unregulated areas should continue to be regulated based on sales areas.

Some comments received addressed supply plant requirements. SDFA recommends that for the southeastern orders the supply plant shipping requirement be 60% of a plant's receipts during July through November and 40% during December through June. However, SDFA also acknowledges that specific exceptions to this principle may be necessary to accommodate specific needs and should be considered on a case by case basis.

SDFA states that supply plant performance requirements should not be changed in an effort to allow all Grade A milk to be included in a marketwide pool. Such a change, it contends, would result in disorderly marketing and jeopardize the viability of local supplies. SDFA requested year-round shipping requirements for supply plants under Orders 5, 6, and 7.

SDFA also states that automatic pooling should be provided for manufacturing or receiving plants located in the marketing area if the plant is operated by a cooperative association, but only if the cooperative has a substantial association with the market.

MMI maintains that southeastern orders would be well-served by provisions which allow reserve supply plants in the North and West to participate in higher blend prices throughout the year, in exchange for greater assurance of a milk supply in the short production months when additional milk is needed. Land O'Lakes (LOL) recommended the elimination of shipping requirements for supply plants, but suggested that supply plant operators make a commitment to supply the market when additional milk is needed. LOL also supports the adoption of a ''call'' provision in each order that would allow the market administrator to require supply plant shipments on an as-needed basis.

Another cooperative operating in the Southeast wrote that reserve supply plant qualification should be based on total cooperative performance but that such plants should not be required to be located in the marketing area. This cooperative contends that if a cooperative is performing a balancing function for the market, it should not be discriminated against just because its plant is not located in the marketing area.

Suggestions were also received concerning certain specialty plants that are located in the Southeast. SDFA recommended amending the *route disposition* definition to accommodate a specialty fluid milk plant in Jacksonville that disposes of long shelf life dairy products. SDFA states that although a large portion of its fluid supply is disposed for Class I use, because of the nature of its business, it is likely that the plant would not meet the 50% route disposition requirement for pool status.

Proposal: The Secretary proposes that the pool plant provisions for the Appalachian, Florida, and Southeast orders under consideration should closely follow the provisions now contained in the southeast orders. The performance standards proposed are appropriate for the needs of these seasonally-deficit markets.

Section 7(a) of each Federal milk order describes the pooling standards for a distributing plant. To qualify for pooling under each of the 3 orders, a distributing plant must dispose of 50 percent of the total fluid milk products received at the plant as route disposition. In addition, at least 10 percent of the plant's receipts must be disposed of as route disposition in the marketing area. These standards would indicate that a distributing plant is closely associated with the fluid market and, therefore, should be part of the marketwide pool.

Paragraph (b) of Section 7 would accommodate the pooling of plants that specialize in aseptically-packaged products. There are at least two such plants in the southeast markets: the Ryan Foods Company plants in Jacksonville, Florida and Murray, Kentucky.

Unlike a typical distributing plant, a plant specializing in aseptically packaged products may have a more erratic processing schedule, reflecting the longer shelf life of the products packaged at the plant. Consequently, a plant's Class I utilization may vary considerably from month to month. In the past, such variability has resulted in shifting pool status for some of these plants from one order to another. In some months, the plant may have been partially regulated, even though all of the milk received at the plant was priced under the order. This type of regulatory instability is not conducive to orderly marketing. To guarantee greater regulatory stability for these plants, they should be fully regulated pool plants if they are located in the marketing area and have route disposition in the marketing area. However, if the plant has no route disposition in the marketing area during the month, the plant operator may request nonpool status for the plant.

The Secretary proposes that each of the three orders also should specify pooling standards for a supply plant. For the Appalachian and Southeast orders, a supply plant must ship at least 50 percent of the milk physically received during the month from dairy farmers and cooperative bulk tank handlers. In the case of the Florida order, the shipping percentage should be slightly higher at 60 percent.

Unlike supply plant provisions in other orders, the supply plant provisions in the three southeast orders should not recognize shipments directly from producers' farms as qualifying shipments for a supply plant. At the present time, there are no plants qualifying as ''pool supply plants'' under any of the southeast orders.

Almost all of the plants that balance the fluid needs of the Southeast are operated by cooperative associations. These ''balancing plants'' qualify for pooling based upon the performance of the cooperative association and not based upon shipments from the plant alone. The Secretary proposes that balancing plant provisions should be maintained for the three southeast orders.

A balancing plant may qualify based upon shipments directly from producers' farms as well as shipments from the plant. To qualify as a balancing plant, the plant must be located within the order's marketing area. This requirement ensures that milk pooled through the balancing plant is economically available to processors of fluid milk if needed. However, in the

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