

*Tentative Partial Decision:* Issued April 8, 2005; published April 14, 2005 (70 FR 19709).

### Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the UMW order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the UMW order:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the UMW marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) The UMW order, as hereby amended on an interim basis, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the order, as hereby amended on an interim basis, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The UMW order, as hereby amended on an interim basis, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional Findings.* It is necessary and in the public interest to make these interim amendments to the UMW order effective July 1, 2005. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the aforesaid marketing area.

The interim amendments to this order are known to handlers. The final decision containing the proposed amendments to this order was issued on April 8, 2005.

The changes that result from these interim amendments will not require extensive preparation or substantial alteration in the method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making these interim order amendments effective on July 1, 2005.

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the specified marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this interim order amending the UMW order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended;

(3) The issuance of the interim order amending the UMW order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the marketing area.

### List of Subjects in 7 CFR Part 1030

Milk marketing orders.

### Order Relative to Handling

*It is therefore ordered*, that on and after the effective date hereof, the handling of milk in the UMW marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended on an interim basis, as follows:

■ The authority citation for 7 CFR part 1030 reads as follows:

**Authority:** 7 U.S.C. 601–674.

### PART 1030—MILK IN THE UPPER MIDWEST MARKETING AREA

■ 1. In § 1030.7, paragraph (c)(2) is revised to read as follows:

#### § 1030.7 Pool plant.

\* \* \* \* \*

(c) \* \* \*

(2) The operator of a supply plant located within the States of Illinois, Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin, and the Upper Peninsula of Michigan may include as qualifying shipments under this paragraph milk delivered directly from producers' farms pursuant to §§ 1000.9(c) or 1030.13(c) to plants described in paragraphs (a), (b) and (e) of this section. Handlers may not use shipments pursuant to § 1000.9(c) or

§ 1030.13(c) to qualify plants located outside the area described above.

\* \* \* \* \*

■ 2. In § 1030.13, paragraph (d) introductory text is revised to read as follows:

#### § 1030.13 Producer milk.

\* \* \* \* \*

(d) Diverted by the operator of a pool plant or a cooperative association described in § 1000.9(c) to a nonpool plant located in the States of Illinois, Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin, and the Upper Peninsula of Michigan, subject to the following conditions:

\* \* \* \* \*

■ 3. In § 1030.55, paragraph (a)(2) is revised to read as follows:

#### § 1030.55 Transportation credits and assembly credits.

(a) \* \* \*

(2) Multiply the hundredweight of milk eligible for the credit by .28 cents times the number of miles, not to exceed 400 miles, between the transferor plant and the transferee plant;

\* \* \* \* \*

Dated: May 26, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410–02–P**

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 617

#### RIN 3052–AC24

### Borrower Rights; Effective Date

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA) published a final rule under part 617 on April 12, 2005 (70 FR 18965). This final rule allows a borrower to waive borrower rights when receiving a loan from a qualified lender as part of a loan syndication with non-Farm Credit System lenders that are otherwise not required by section 4.14A(a)(6) of the Farm Credit Act of 1971, as amended, to provide borrower rights and provides qualified lenders needed flexibility to meet the credit needs of borrowers seeking financing from a qualified lender as part of certain syndicated lending arrangements. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or

both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 26, 2005.

**DATES:** The regulation amending 12 CFR part 617, published on April 12, 2005 (70 FR 18965), is effective May 26, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mark Johansen, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434; or Howard Rubin, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-4020.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 26, 2005.

**Jeanette C. Brinkley,**  
*Secretary, Farm Credit Administration Board.*  
[FR Doc. 05-10874 Filed 5-31-05; 8:45 am]  
**BILLING CODE 6705-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Part 648

[Docket No. 050314072-5126-02; I.D. 030705D]

RIN 0648-AS33

#### Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Framework Adjustment 40B

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is implementing approved measures contained in Framework Adjustment 40B (FW 40B) to the NE Multispecies Fishery Management Plan (FMP). FW 40B was developed by the New England Fishery Management Council (Council) to modify existing effort control programs implemented under Amendment 13 to the FMP to improve the effectiveness of these programs, to create additional opportunities for commercial fishing vessels in the fishery to target healthy groundfish stocks, and to increase the information available to assess groundfish bycatch in the herring fishery. This final rule implements several revisions to the Days-at-Sea (DAS) Leasing and Transfer Programs, modifies provisions for the Closed Area

(CA) II Yellowtail Flounder Special Access Program (SAP), revises the allocation criteria for the Georges Bank (GB) Cod Hook Sector (Sector), establishes a DAS credit for vessels standing by an entangled whale, implements new notification requirements for Category 1 herring vessels, and removes the net limit for Trip gillnet vessels.

**DATES:** Effective June 1, 2005.

**ADDRESSES:** Copies of FW 40B, its Regulatory Impact Review (RIR) and the Environmental Assessment (EA) are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery—Mill 2, Newburyport, MA 01950. NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which is contained in the Classification section of this final rule. The EA/RIR/FRFA are also accessible via the Internet at <http://www.nero.nmfs.gov>. Copies of the Small Entity Compliance Guide are available from the Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule should be submitted to the Regional Administrator at the address above and to David Rostker, Office of Management and Budget (OMB), by e-mail at [drostker@omb.eop.gov](mailto:drostker@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Douglas W. Christel, Fishery Policy Analyst, (978) 281-9141, fax (978) 281-9135.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Council developed Amendment 13 in order to bring the FMP into conformance with all Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements, including ending overfishing and rebuilding all overfished groundfish stocks. Amendment 13 was partially approved by the Secretary of Commerce on March 18, 2004. A final rule implementing the approved measures in the amendment was published April 27, 2004 (69 FR 22906) and became effective May 1, 2004. Because of the mixed-stock nature of the NE multispecies fishery, management measures to reduce mortality on overfished stocks adopted in Amendment 13, including effort reductions, are expected to reduce fishing mortality more than is necessary

on other, healthy stocks. As a result, yield from healthy stocks may be sacrificed and the FMP may not provide for the fishery to harvest the optimum yield (OY), the amount of fish that will provide the greatest overall benefit to the Nation, from all stocks managed under the FMP for a given year.

Amendment 13 categorized the DAS allocated to each NE multispecies permit as Category A, B (Regular), B (Reserve), or C DAS. Category A DAS can be used to target any regulated groundfish stock, while Category B DAS are to be used only to target healthy groundfish stocks. Category C DAS cannot be used unless authorized at some time in the future. The regulations implementing Amendment 13 created one opportunity to use Category B DAS: A SAP designed to target GB yellowtail flounder in CA II. Framework Adjustment 40A (FW 40A), implemented November 19, 2004 (69 FR 67780), provided additional opportunities to use Category B DAS by creating two SAP's to target GB haddock and a pilot program designed for using Category B (Regular) DAS outside of a SAP (*i.e.*, the Regular B DAS Pilot Program). These programs are intended to allow vessels to target healthy groundfish stocks without compromising the rebuilding programs of other groundfish stocks, thus enabling the industry to harvest OY from the healthy stocks.

Since the implementation of Amendment 13 and submission of FW 40A, several issues have been raised concerning the overall approach to controlling effort. FW 40B proposes to address these new issues by improving the effectiveness of the Amendment 13 effort control program, including the opportunities developed to target healthy stocks and other measures to facilitate adaptation to the Amendment 13 effort reductions, as well as collect additional information regarding the bycatch of regulated species in the herring fishery.

#### Comments and Responses

Thirteen letters were received regarding the proposed rule (March 29, 2005; 70 FR 15803) to implement FW 40B, including five letters from groups representing the fishing industry. Two letters were received that were not relevant to the proposed action, including one comment that was directed towards the recent closure of the Eastern U.S./Canada Area on April 1, 2005 (70 FR 16758). Since these comments were not directed at the proposed measures under FW 40B, NMFS has not responded to these comments.