

for the period of January 1, 1995, through February 28, 1995, the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1005.13(d)(2), the words "and January and February".

Statement of Consideration

This rule suspends the 25 percent diversion limitation for a cooperative association for the months of January and February.

It allows a cooperative association to divert an unlimited quantity of each member producer's milk to nonpool plants if at least six days' production was delivered to a pool plant during the month. The Carolina order requires that during each of the months of July through November, January, and February, the total quantity of milk diverted to nonpool plants by a cooperative association not exceed 25 percent of the producer milk that such cooperative caused to be delivered to or diverted from such pool plants.

Carolina Virginia Milk Producers Association, a cooperative association with member producers pooled on the Alabama (Order 93), Georgia (Order 7), Tennessee Valley (Order 11), and Carolina (Order 5) Federal milk marketing orders, indicates that effective August 1, 1994, it lost Class I sales with a handler regulated under Order 7. The cooperative then gained Class I sales with a handler regulated under Order 5 effective October 1, 1994, and shifted the producer milk supply formerly associated with the Order 7 handler to Order 5. This realignment resulted in additional producer milk delivered to Carolina handlers during the summer and fall months of 1994.

The cooperative states that it is the balancing agent for its Class I customers under Order 5 for their weekly and seasonal milk supply. It asserts that the proposed suspension is necessary to accommodate pooling the anticipated production of its member producers during these months.

It is appropriate to suspend the aforesaid provision for the period of January 1, 1995, through February 28, 1995. The suspension will prevent the uneconomic and inefficient movement of producers' milk and allow producers to continue to have their milk priced and pooled under an order during these months. Thus, the Class I needs of the Carolina order should still be met.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1005

Milk marketing orders.

For the reasons set forth in the preamble, the following provision in Title 7, Part 1005, is amended as follows:

PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. The authority citation for 7 CFR Part 1005 continues to read as follows:

Authority: Secs. 1–19, 48 Stat 31, as amended; 7 U.S.C. 601–674.

§ 1005.13 [Suspended in part]

2. In § 1005.13(d)(2), the words "and January and February", are suspended for the period of January 1, 1995, through February 28, 1995.

Dated: December 23, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

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7 CFR Part 1032

[DA–95–04]

Milk in the Southern Illinois-Eastern Missouri Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document suspends a portion of the supply plant shipping requirement of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32) for the months of December 1994 and January

1995. The suspension is necessary to ensure that producers historically associated with Order 32 will continue to have their milk pooled under the order without having to move milk uneconomically.

EFFECTIVE DATE: December 1, 1994, through January 31, 1995.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued November 21, 1994; published November 25, 1994 (59 FR 60573).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

This final rule has been reviewed under Executive Order 12778, 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 file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. 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,