This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

**Proposed Rules** 

# DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

7 CFR Parts 1030, 1065, 1068, 1076 and 1079

[Docket Nos. AO-361-A31, etc.; DA-92-27]

## Milk in the Chicago Regional and Other Marketing Areas; Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

## ACTION: Proposed rule.

7 CFR Part	Marketing area	AO Nos.
1030 1065	Chicago Regional Nebraska-Western	AO-361-A31 AO-86-A50
1068 1076	lowa. Upper Midwest Eastern South Da-	AO-178-A48 AO-260-A32
1079	kota. Iowa	AO-295-A44

**SUMMARY:** This final decision adopts changes in the Federal milk marketing orders for five north central marketing areas based on industry proposals considered at a public hearing. The decision adopts a plan for pricing milk on the basis of its protein and other nonfat solids, as well as butterfat, components. The proposed plan includes adjustments per hundredweight based on the somatic cell count of producer milk used in Class II and Class III, and on payments to producers of all pooled milk.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720– 2357.

**SUPPLEMENTARY INFORMATION:** This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12866.

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. The amended orders will promote more orderly marketing of milk by producers and regulated handlers.

These proposed amendments have been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed 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 provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting 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, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Prior documents in this proceeding; Notice of Hearing: Issued December 22, 1993; published January 4, 1994 (59

FR 260).

Extension of Time for Filing Briefs: Issued April 22, 1994; published April 29, 1994 (59 FR 22138).

Recommended Decision: Issued October 25, 1994; published November 2, 1994 (59 FR 54952).

Extension of Time for Filing Exceptions: December 2, 1994; published December 9, 1994 (59 FR 63733). Federal Register Vol. 60, No. 156 Monday, August 14, 1995

#### **Preliminary Statement**

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the Chicago Regional and certain other marketing areas. The hearing was held, 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 (7 CFR Part 900), at Bloomington, Minnesota, on January 25–27, 1994. Notice of such hearing was issued on December 22, 1993, and published January 4, 1994 (59 FR 260).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, on October 25, 1994, issued a recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under Issue 1, the last sentence in paragraph 1 is revised, the second sentence in paragraph 23 is revised, a paragraph is added after paragraph 34, and two paragraphs are added after paragraph 40.

2. Two paragraphs are added at the end of Issue 2.

3. Under Issue 3, one paragraph is added after paragraph 5, the first sentence of paragraph 8 is revised, and a paragraph is added at the end of Issue 3.

4. Under Issue 3a, a phrase is modified in paragraph 5, four paragraphs are added after paragraph 25, and two paragraphs are added at the end of Issue 3a.

5. Under Issue 3b, paragraph 1 is modified, one paragraph is added after paragraph 7, one paragraph is added after paragraph 8, and one paragraph is added at the end of Issue 3b.

6. Under Issue 3c, a sentence is added at the end of paragraph 3.

7. Under Issue 4, paragraph 1 is modified, paragraph 26 is modified and expanded into three paragraphs, the last four sentences of paragraph 34 and all of paragraphs 35 and 36 are deleted, and 34 paragraphs are added at the end of Issue 4.