

have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period began on August 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

### PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new subpart titled “Assessment Rates” consisting of a new § 959.237 and a new subpart heading titled “Handling Regulations” are added immediately preceding § 959.322, to read as follows:

Note: This section will appear in the Code of Federal Regulations.

#### Subpart—Assessment Rates

##### § 959.237 Assessment rate.

On and after August 1, 1996, an assessment rate of \$0.07 per 50-pound container or equivalent is established for South Texas onions.

#### Subpart—Handling Regulations

\* \* \* \* \*

Dated: December 31, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–282 Filed 1–6–97; 8:45 am]

BILLING CODE 3410–02–P

### 7 CFR Parts 1011 and 1046

[Docket No. DA–96–15]

#### Milk in the Tennessee Valley and Louisville-Lexington-Evansville Marketing Area

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule, correction.

**SUMMARY:** The Agricultural Marketing Service is correcting FR Doc. 96–33000, published December 31, 1996, pertaining to the termination of base-excess payment plan provisions contained in five Federal milk marketing orders.

**EFFECTIVE DATE:** January 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Washington, DC 20090–6456, (202) 690–1932.

**SUPPLEMENTARY INFORMATION:** The final rule that is the subject of this correction inadvertently omitted regulatory language terminating the base-excess payment plan provisions of five Federal milk marketing orders.

#### Need for Correction

As published, the final rule contains errors in amendatory instructions 24 and 32 which may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, amendatory instructions 24 and 32, respectively, as published on December 31, 1996 (61 FR 69018), are corrected as follows:

##### § 1011.61 [Corrected]

24. In § 1011.61, paragraph (a) introductory text is amended by removing the words “of July through February”, paragraph (a)(6) is amended by removing the words “for the months of July through February”, paragraph (b) is removed, and the section heading is revised as follows:

##### § 1046.61 [Corrected]

32. In § 1046.61, paragraph (a) introductory text is amended by removing the words “of July through February”, paragraph (a)(6) is amended by removing the words “for the months of July through February”, paragraph (b) is removed, and the section heading is revised to read as follows:

Dated: December 30, 1996.

Richard M. McKee,

*Director, Dairy Division.*

[FR Doc. 97–280 Filed 1–6–97; 8:45 am]

BILLING CODE 3410–02–M

### 7 CFR Part 1079

[DA–96–16]

#### Milk in the Iowa Marketing Area; Temporary Revision of Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This document revises certain provisions of the Iowa Federal milk marketing order for the months of December 1996 through March 1997. This action decreases the percentage of a supply plant's receipts that must be delivered to fluid milk plants to qualify a supply plant for pooling under the Iowa Federal milk order. The applicable percentage will be decreased 10 percentage points, from 30 percent to 20 percent, for the months of December 1996 through March 1997. The revision is being made in response to a request by a pool supply plant that is regulated under the Iowa order. This action is necessary to prevent the uneconomic shipment of milk.

**EFFECTIVE DATES:** Amendment 1 is effective January 8, 1997. Amendment 2 is effective December 1, 1996, through March 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/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:** Prior document in this proceeding:

Notice of Proposed Temporary Revision: Issued December 6, 1996; published December 12, 1996 (61 FR 65366).

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 (the “Act”), 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 has certified that this rule will not 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 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 revised supply plant shipping percentages are incorporated into the order to prevent the uneconomic shipment of milk. This action will decrease the percentage of milk receipts that handlers are required to move to fluid milk distributing plants. With a decrease in the shipping percentage, supply plant operators will not have to move milk uneconomically to pool distributing plants to keep the milk received at their plants priced under the order.

The reduction of the required supply plant shipping percentage for the months of December 1996 through March 1997 would allow the milk of producers traditionally associated with the Iowa market to continue to be pooled and priced under the order. The revision would lessen the likelihood that more milk shipments to pool plants might be required under the order than are actually needed to supply the fluid milk needs of the market and would

result in savings in hauling costs for handlers and producers.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the provisions of § 1079.7(b)(1) of the Iowa order.

#### Issuance of Notice of Proposed Revision

Notice of proposed rulemaking was issued concerning a proposed reduction in the percentage of a supply plant's receipts which must be delivered to fluid milk plants to qualify a supply plant for pooling under the Iowa order. The revisions were proposed to be effective for the months of December 1, 1996, through March 31, 1997. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by December 19, 1996.

Two comments were received. One comment supported the recommended reduction, while the other comment supported a reduction with modification.

#### Statement of Consideration

After consideration of all relevant material, including the proposed set forth in the aforesaid notice, and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1079.7(b) of the Iowa Federal milk order should be decreased 10 percentage points, from 30 percent to 20 percent, for the months of December 1996 through March 1997.

Beatrice Cheese, Inc., a supply plant regulated under the Iowa order, proposed decreasing the supply plant shipping percentage by 10 percentage points, from 35 percent of plant receipts to 25 percent of such receipts, for the month of November 1996, and from 30 percent to 20 percent for the months of December 1996 through March 1997. The proponent contends that the decrease is necessary to prevent the uneconomic shipment of milk.

According to Beatrice, the Department's October 23, 1996, decision increasing the shipping percentage requirements to 35 percent for the months of September through November beginning with October 1996, and to 30 percent for the months of December through March has caused unjust financial losses and the uneconomic shipment of milk to occur. In order to comply with Federal order requirements, Beatrice states that a significant amount of milk was unable to be pooled to the detriment of Iowa's dairy farmers. Additionally, proponent claims that market conditions have changed drastically in Iowa since

October 1996 due to a drop in the cheese and butter markets which has made more than enough milk available for fluid use eliminating the need for increased shipping percentages.

While Beatrice's proposal included a temporary revision of the supply plant shipping percentage requirements for November 1996, the proposed revision issued December 6, 1996, requesting comments limited the revision period to December 1996 through March 1997. The inclusion of November 1996 was impractical and infeasible given the amount of time necessary for required procedures, including a comment period.

Wapsie Valley Creamery, a supply plant regulated under Order 79, submitted a comment in support of a reduction in the supply plant shipping requirement by 10 percentage points for the months of December 1996 through March 1997. Wapsie states that milk marketing conditions have changed since October 1996, and that due to the increased shipping requirements recently put into effect, it has been forced to make uneconomic shipments of milk to meet order regulations.

Anderson Erickson Dairy Co. (A-E), a proprietary distributing plant regulated under the Iowa order, submitted a comment supporting a reduction in the supply plant shipping percentage requirements for the Iowa order, but argues that the decrease should be limited to 5 percentage points, from 30 percent to 25 percent, for the months of December 1996 through March 1997. A-E contends that, given past experiences which have caused A-E to request increased shipping percentages due to a lack of available milk supplies for the fluid market, the percentage should be reduced only 5 percentage points from the current level. A-E also states that under no circumstances should the shipping requirements for September through December of future years be reduced.

At the time of A-E's previous request to have the shipping percentages increased, the Department had found that in the Iowa marketing area the percentage of pooled milk used in Class I had noticeably increased for the months of June through August 1996 as compared to earlier years. This situation indicated the need for shipping percentage increases in order to attract an adequate supply of milk for fluid use. However, Class I utilization for the month of October 1996 in the Iowa marketing area illustrates that there is no need to maintain the shipping percentages at the current level of 30 percent. The Class I utilization for the months of October and November 1996

(33.8% and 32.7%, respectively) has decreased as compared to October and November 1995 (49.6% and 36.1%, respectively). A decrease in Class I utilization is also apparent for the January through March 1996 period as compared to the same months of 1995. Class I utilization declined from 34.7 percent for January 1995 to 32.1 percent in January 1996, 35.7 percent to 33.1 percent for the month of February, and from 34.2 percent to 31.7 percent for March of such years. This suggests that sufficient supplies of milk for fluid use should be available during the months of December 1996 through March 1997 for Iowa order distributing plants. Therefore, a decrease in the shipping requirement is warranted. By reducing the shipping requirement percentage for the December 1996 through March 1997 period to 20 percent, a reasonable balance will be reached which will prevent uneconomic shipments from occurring, as well as assure a sufficient milk supply.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of December 1996 through March 1997;

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

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective less than 30 days from the date of issuance.

#### List of Subject in 7 CFR Part 1079

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR Part 1079 is amended as follows:

### **PART 1079—MILK IN THE IOWA MARKETING AREA**

1. The authority for 7 CFR Part 1079 continues to read as follows:

Authority: 7 U.S.C. 601-674.

#### **§ 1079.7 [Amended]**

2. In § 1079.7(b), the introductory text is amended by revising the words "30 percent" to read "20 percent" effective December 1, 1996, through March 31, 1997.

Dated: December 31, 1996.

Richard M. McKee,

*Director, Dairy Division.*

[FR Doc. 97-278 Filed 1-6-97; 8:45 am]

BILLING CODE 3410-02-P

### **TENNESSEE VALLEY AUTHORITY**

#### **18 CFR Part 1314**

#### **Book-Entry Procedures for TVA Power Securities Issued Through the Federal Reserve Banks**

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the procedures governing the issuance of, and transactions in, all TVA Power Securities issued in book-entry form through the Federal Reserve Banks. These revisions incorporate recent changes in commercial and property law and bring TVA's book-entry procedures into accord with the revised book-entry procedures of the United States Department of Treasury.

**EFFECTIVE DATE:** January 7, 1997.

**FOR FURTHER INFORMATION CONTACT:** Edward S. Christenbury at (423) 632-2241.

**SUPPLEMENTARY INFORMATION:** TVA, a wholly owned corporate agency and instrumentality of the United States, is authorized to issue bonds, notes, and other evidences of indebtedness to assist its power program. Many TVA Power Securities are available exclusively in book-entry form and are thus subject to TVA's book-entry procedures. This final rule revises TVA's book-entry procedures to incorporate recent changes in commercial and property law and to bring them into accord with the revised book-entry procedures of the United States Department of Treasury published in the Federal Register on August 23, 1996 (61 FR 43,626).

Because the revised Treasury Regulations become effective on January 1, 1997, it is in the public interest that this final rule become effective as close to this date as possible to facilitate TVA's performance of its responsibilities under Section 15d and other sections of the TVA Act, 16 U.S.C. 831-831dd. The notice, public comment, and delayed effective date are therefore contrary to the public interest and inapplicable to this final rule.

#### List of Subjects in 18 CFR Part 1314

Accounting, Bonds, Brokers, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, part 1314 of chapter XIII of title 18 of the Code of Federal Regulations is revised to read as follows:

### **PART 1314—BOOK-ENTRY PROCEDURES FOR TVA POWER SECURITIES ISSUED THROUGH THE FEDERAL RESERVE BANKS**

Sec.

1314.1 Applicability and effect.

1314.2 Definition of terms.

1314.3 Authority of Reserve Banks.

1314.4 Law governing the rights and obligations of TVA and Reserve Banks; law governing the rights of any Person against TVA and Reserve Banks; law governing other interests.

1314.5 Creation of Participant's Security Entitlement; security interests.

1314.6 Obligations of TVA.

1314.7 Liability of TVA and Reserve Banks.

1314.8 Identification of accounts.

1314.9 Waiver of regulations.

1314.10 Additional provisions.

Authority: 16 U.S.C. 831-831dd.

#### **§ 1314.1 Applicability and effect.**

(a) *Applicability.* The regulations in this part govern the issuance of, and transactions in, all TVA Power Securities issued by TVA in book-entry form through the Reserve Banks.

(b) *Effect.* The TVA Power Securities to which the regulations in this part apply are obligations which, by the terms of their issue, are available exclusively in book-entry form through the Reserve Banks' Book-entry System.

#### **§ 1314.2 Definition of terms.**

Unless the context requires otherwise, terms used in this part 1314 that are not defined in this section have the meanings as set forth in 31 CFR 357.2. Definitions and terms used in 31 CFR part 357 should be read as though modified to effectuate their application to Book-entry TVA Power Securities where applicable.

*Book-entry System* means the automated book-entry system operated by the Reserve Banks acting as the fiscal agent for TVA on which Book-entry TVA Power Securities are issued, recorded, transferred, and maintained in book-entry form.

(b) *Book-entry TVA Power Security* means any TVA Power Security issued or maintained in the Book-entry System of the Reserve Banks.

(c) *CUSIP Number* is a unique identification for each security issue established by the Committee on Uniform Security Identification Procedures.

(d) *Depository Institution* means any Participant.

(e) *Entitlement Holder* means a Person to whose account an interest in a Book-