

IMPORT ASSESSMENT TABLE—  
Continued  
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6208220000 .....	0.1245	0.1224
6208911010 .....	1.1455	1.1264
6208911020 .....	1.1455	1.1264
6208913010 .....	1.1455	1.1264
6209201000 .....	1.1577	1.1384
6209203000 .....	0.9749	0.9586
6209205030 .....	0.9749	0.9586
6209205035 .....	0.9749	0.9586
6209205040 .....	1.2186	1.1982
6209205045 .....	0.9749	0.9586
6209205050 .....	0.9749	0.9586
6209303020 .....	0.2463	0.2422
6209303040 .....	0.2463	0.2422
6210109010 .....	0.2291	0.2253
6210403000 .....	0.0391	0.038
6210405020 .....	0.4556	0.448
6211111010 .....	0.1273	0.1252
6211111020 .....	0.1273	0.1252
6211118010 .....	1.1455	1.1264
6211118020 .....	1.1455	1.1264
6211320007 .....	0.8461	0.832
6211320010 .....	1.0413	1.0239
6211320015 .....	1.0413	1.0239
6211320030 .....	0.9763	0.96
6211320060 .....	0.9763	0.96
6211320070 .....	0.9763	0.96
6211330010 .....	0.3254	0.032
6211330030 .....	0.3905	0.384
6211330035 .....	0.3905	0.384
6211330040 .....	0.3905	0.384
6211420010 .....	1.0413	1.0239
6211420020 .....	1.0413	1.0239
6211420025 .....	1.1715	1.1519
6211420060 .....	1.0413	1.0239
6211420070 .....	1.1715	1.1519
6211430010 .....	0.2603	0.256
6211430030 .....	0.2603	0.256
6211430040 .....	0.2603	0.256
6211430050 .....	0.2603	0.256
6211430060 .....	0.2603	0.256
6211430066 .....	0.2603	0.256
6212105020 .....	0.2412	0.2372
6212109010 .....	0.9646	0.9485
6212109020 .....	0.2412	0.2372
6212200020 .....	0.3014	0.2964
6212900030 .....	0.1929	0.1897
6213201000 .....	1.1809	1.1612
6213202000 .....	1.0628	1.0451
6213901000 .....	0.4724	0.4645
6214900010 .....	0.9043	0.8892
6216000800 .....	0.2351	0.2312
6216001720 .....	0.6752	0.6639
6216003800 .....	1.2058	1.1857
6216004100 .....	1.2058	1.1857
6217109510 .....	1.0182	1.0012
6217109530 .....	0.2546	0.2503
6301300010 .....	0.8766	0.862
6301300020 .....	0.8766	0.862
6302100005 .....	1.1689	1.1494
6302100008 .....	1.1689	1.1494
6302100015 .....	1.1689	1.1494
6302215010 .....	0.8182	0.8045
6302215020 .....	0.8182	0.8045
6302217010 .....	1.1689	1.1494
6302217020 .....	1.1689	1.1494
6302217050 .....	1.1689	1.1494
6302219010 .....	0.8182	0.8045
6302219020 .....	0.8182	0.8045
6302219050 .....	0.8182	0.8045

IMPORT ASSESSMENT TABLE—  
Continued  
[Raw Cotton Fiber]

HTS No.	Conv. fact.	Cents/kg.
6302222010 .....	0.4091	0.4023
6302222020 .....	0.4091	0.4023
6302313010 .....	0.8182	0.8045
6302313050 .....	1.1689	1.1494
6302315050 .....	0.8182	0.8045
6302317010 .....	1.1689	1.1494
6302317020 .....	1.1689	1.1494
6302317040 .....	1.1689	1.1494
6302317050 .....	1.1689	1.1494
6302319010 .....	0.8182	0.8045
6302319040 .....	0.8182	0.8045
6302319050 .....	0.8182	0.8045
6302322020 .....	0.4091	0.4023
6302322040 .....	0.4091	0.4023
6302402010 .....	0.9935	0.9769
6302511000 .....	0.5844	0.5746
6302512000 .....	0.8766	0.862
6302513000 .....	0.5844	0.5746
6302514000 .....	0.8182	0.8045
6302600010 .....	1.1689	1.1494
6302600020 .....	1.052	1.0344
6302600030 .....	1.052	1.0344
6302910005 .....	1.052	1.0344
6302910015 .....	1.1689	1.1494
6302910025 .....	1.052	1.0344
6302910035 .....	1.052	1.0344
6302910045 .....	1.052	1.0344
6302910050 .....	1.052	1.0344
6302910060 .....	1.052	1.0344
6303110000 .....	0.9448	0.929
6303910000 .....	0.6429	0.6322
6304111000 .....	1.0629	1.0451
6304190500 .....	1.052	1.0344
6304191000 .....	1.1689	1.1494
6304191500 .....	0.4091	0.4023
6304192000 .....	0.4091	0.4023
6304910020 .....	0.9351	0.9195
6304920000 .....	0.9351	0.9195
6505901540 .....	0.181	0.178
6505902060 .....	0.9935	0.9769
6505902545 .....	0.5844	0.5746

\* \* \* \* \*

Dated: March 3, 2000.

**Kathleen A. Merrigan,**  
*Administrator, Agricultural Marketing  
Service.*

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## **NORTHEAST DAIRY COMPACT COMMISSION**

### **7 CFR Parts 1306, 1307 and 1309**

#### **Over-Order Price Regulation**

**AGENCY:** Northeast Dairy Compact  
Commission.

**ACTION:** Proposed rule; notice of hearing.

**SUMMARY:** The Northeast Dairy Compact Commission proposes to amend the over-order price regulation to establish a supply management program. The

proposed program is an assessment/refund plan under which the Commission would withhold \$.05 cents from the producer price from each Compact monthly pool. At the end of the Commission's fiscal (calendar) year, the Commission would refund the withheld funds to compact eligible producers who had increased production at a rate of one percent or less, as compared to the prior calendar year's production. One-half of the assessed funds would be distributed to all eligible producers at a flat rate refund amount and one-half would be distributed based on the total volume of milk produced for the year, up to a maximum per hundredweight refund of \$12,000.

**DATES:** A public hearing will be held on April 5, 2000 to commence at 1:00 p.m. Sworn and notarized written testimony, comments and exhibits may be submitted until 5:00 p.m. on April 19, 2000.

**ADDRESSES:** The public hearing will be held at the Wayfarer Inn, 121 S. River Road, U.S. Route 3, Bedford, New Hampshire. Mail, or deliver, sworn and notarized testimony, comments and exhibits to: Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, Vermont 05602.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229-1941, or by facsimile at (802) 229-2028.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

The Northeast Dairy Compact Commission ("Commission") was established under authority of the Northeast Interstate Dairy Compact ("Compact"). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93-320; Maine—Pub. L. 89-437, as amended, Pub. L. 93-274; Massachusetts—Pub. L. 93-370; New Hampshire—Pub. L. 93-336; Rhode Island—Pub. L. 93-106; Vermont—Pub. L. 93-57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104-127 (FAIR Act), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact. Congressional consent to the Compact was extended in Pub. L. 106-113, 115 Stat. 1501, November 29, 1999.

Pursuant to its rulemaking authority under Article V, Section 11 of the

Compact, the Commission concluded an informal rulemaking process and voted to adopt a compact over-order price regulation on May 30, 1997.<sup>1</sup> The Commission subsequently amended and extended the compact over-order price regulation.<sup>2</sup> In 1998, the Commission further amended specific provisions of the over-order price regulation.<sup>3</sup> The current compact over-order price regulation is codified at 7 CFR Chapter XIII.

On November 27, 1998, the Commission issued a notice of proposed rulemaking proceedings on several subjects and issues, including whether additional supply management policies and provisions should be incorporated into the over-order price regulation.<sup>4</sup> The Commission held a public hearing to receive testimony on December 11, 1998 in Boxborough, Massachusetts and comments were received until 5:00 p.m. on December 31, 1998. The Commission issued a notice of proposed rulemaking on April 19, 1999<sup>5</sup>, in which a specific assessment and refund program was proposed. The Commission held a public hearing on May 5, 1999 in Concord, New Hampshire and received comments until May 19, 1999. The Commission subsequently reopened the rulemaking and proposed a base/excess plan, in addition to an assessment/refund plan. Notice of the supplemental proposed rulemaking proceedings was issued on June 21, 1999.<sup>6</sup> The Commission held public hearings on July 7, 1999 in West Springfield, Massachusetts and August 4, 1999 in White River Junction, Vermont. The Commission received written comments through August 18, 1999.

At its deliberative meeting on February 2, 2000, the Commission decided to conclude those proceedings. At that meeting, the Commission referred the supply management issue to its Committee on Regulations and Rulemaking for further study. The Committee was asked to report back to the full Commission no later than the March 1, 2000 meeting with recommendations for addressing supply management and the requirement in Article IV, Section 9(f) of the Compact. That provision requires the

Commission, when establishing a compact over-order price, to "take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk."

Since promulgation of the Compact Over-order Price Regulation in 1997, the Commission has closely monitored milk production levels in New England. One of the main goals in initially promulgating the Over-order Price Regulation was to at least stabilize the dairy industry supplying the New England consumer milk markets and to increase the local supply of milk.<sup>7</sup>

Based on the oral testimony and written comments and exhibits received in the December 1998 subjects and issues rulemaking proceeding, and the May, July and August 1999 public hearings and proposed rulemaking proceedings, the Commission proposes to implement a supply management program through an assessment and refund payment to producers who maintain their milk production within one percent of the prior year's production level. The proposed program is described in detail below.

## II. Proposed Supply Management Program

The proposed supply management program is designed to meet the Commission's responsibilities under Article IV, Section 9(f) of the Compact. That provision provides that "[w]hen establishing a compact over-order price, the commission shall take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk." The proposed supply management program is relatively straightforward to administer and implement and therefore would be a feasible method of addressing supply management. The proposed supply management program is necessary to ensure that the compact over-order price does not create an incentive for producers to increase milk production, as required by section 9(f) of the Compact.

Table 1 shows the total volume of milk in the Compact pool between July 1997 and December 1999. The volume of milk includes milk produced outside of New England, and distributed within New England, and does not include

milk excluded pursuant to the Compact limitations on qualification of diverted and transferred milk.

TABLE 1.—VOLUME OF MILK IN THE COMPACT POOL JULY 1997 THROUGH DECEMBER 1999

[In millions of pounds]

Month	1997	1998	1999
Jan .....	.....	544.2	568.3
Feb .....	.....	508.1	528.3
Mar .....	.....	561.2	563.0
Apr .....	.....	541.8	568.5
May .....	.....	580.8	599.0
June .....	.....	552.1	569.2
July .....	531.0	567.9	564.3
Aug .....	532.2	551.3	559.8
Sept .....	503.9	529.5	530.4
Oct .....	517.3	544.3	545.9
Nov .....	498.0	527.3	525.3
Dec .....	535.1	566.0	560.7
Average .....	519.6	547.9	556.9

Table 2 shows the volume of milk that has been depooled, or excluded from qualification for Compact payments, pursuant to the Compact limitations on diverted and transferred milk.<sup>8</sup> The limitations on diverted and transferred milk became effective in January 1999 and applied to the first Compact pool in April 1999. The applicable regulations are codified at 7 CFR 1301.23(d) and 1304.2(c).

TABLE 2.—VOLUME OF DEPOOLED MILK JANUARY 1999 THROUGH DECEMBER 1999

[In millions of pounds]

Month	Depooled milk
Jan.	
Feb.	
Mar.	
Apr .....	4.3
May .....	1.2
June .....	.9
July .....	1.5
Aug .....	4.8
Sept .....	4.7
Oct .....	2.0
Nov .....	2.2
Dec .....	1.4
Total .....	23.0

<sup>1</sup> 62 FR 29626 (May 30, 1997).

<sup>2</sup> 62 FR 62810 (Nov. 25, 1997).

<sup>3</sup> 63 FR 10104 (Feb. 27, 1998); 63 FR 46385 (Sept. 1, 1998); and 63 FR 65517 (Nov. 27, 1998).

<sup>4</sup> 63 FR 65563 (Nov. 27, 1998).

<sup>5</sup> 64 FR 19084 (Apr. 19, 1999).

<sup>6</sup> 64 FR 33027 (June 21, 1999).

<sup>7</sup> 62 FR 23039–40 (April 28, 1997); 62 FR 29635 (May 30, 1997); 62 FR 62814 (Nov. 25, 1997).

<sup>8</sup> 63 FR 65517 (Nov. 27, 1998).

Table 3 shows the total volume of milk qualified for Compact payments, after exclusions pursuant to the diverted and transferred milk limitations, by quarter. Table 3 also shows the percent increase in milk volume over the same quarter in the prior year.

TABLE 3.—COMPACT PRODUCER MILK BY QUARTER, JULY 1997 THROUGH DECEMBER 1999

Quarter	1997 (million pounds)	1998 (million pounds)	1999 (million pounds)	1997/1998 (percent)	1998/1999 (percent)
Jan-Mar .....	.....	1,613.5	1,659.6	.....	2.9
Apr-June .....	.....	1,674.7	1,736.7	.....	3.7
Jul-Sep .....	1,567.1	1,648.7	1,654.5	5.2	0.4
Oct-Dec .....	1,550.4	1,637.6	1,631.9	5.6	-0.4
Average .....	1,558.75	1,643.6	1,670.7	5.4	1.6

Table 4 shows the federal blend price, the Compact producer price and the percent of total producer price attributed to Compact payments.

TABLE 4.—TOTAL PRODUCER PRICE AND PERCENT ATTRIBUTED TO COMPACT PAYMENTS

Month	Federal blend price (zone 21)	Compact producer price	Total producer price	Percent of total due to compact
July 1997 .....	\$11.97	\$1.28	\$13.25	9.66
August .....	12.26	1.31	13.57	9.65
September .....	12.54	1.36	13.90	9.78
October .....	13.60	0.81	14.41	5.62
November .....	14.10	0.44	14.54	3.03
December .....	14.06	0.40	14.46	2.77
January 1998 .....	14.02	0.34	14.36	2.37
February .....	14.30	0.04	14.34	0.28
March .....	14.10	0.16	14.26	1.12
April .....	13.96	0.14	14.10	1.00
May .....	13.38	0.33	13.71	2.41
June .....	13.68	0.71	14.39	2.41
July .....	13.14	1.02	14.16	7.20
August .....	15.00	0.24	15.24	1.57
September .....	16.47	0.00	16.47	0
October .....	16.76	0.00	16.76	0
November .....	16.67	0.00	16.67	0
December .....	17.18	0.00	17.18	0
January 1999 .....	17.29	0.00	17.29	0
February .....	15.82	0.00	15.82	0
March .....	15.69	0.00	15.69	0
April .....	11.76	1.43	13.19	10.8
May .....	12.42	0.82	13.24	6.2
June .....	12.79	0.73	13.52	5.4
July .....	12.97	1.01	13.98	7.22
August .....	13.64	0.70	14.34	4.88
September .....	15.34	0.21	15.55	1.35
October .....	15.47	0.00	15.47	0
November .....	15.41	0.00	15.41	0
December .....	12.15	1.00	13.15	7.60
Average .....	14.26	0.49	14.75	3.32

The Commission has considered the data shown in Tables 1 through 4 above to design a feasible supply management program that ensures that the over-order price does not create an incentive for producers to generate additional supplies of milk, and that is also consistent with its primary responsibility of assuring the viability of dairy farming in the northeast, and to assure consumers of an adequate, local supply of pure and wholesome milk. Compact Sections 1 and 9(f)

The proposed program would assess \$0.5 per hundredweight from the producer price in each monthly Compact pool. By taking an equal rate from each producer pool, the impact on

the monthly producer pay price would be minimized, and predictable, thereby continuing to ensure a sufficient and stable pay price to producers to cover their costs of production. These funds would be accumulated in a separate account throughout the calendar year in a supply management-settlement fund.

At the conclusion of the calendar year, producers would have 45 days to submit an application to the Commission for a refund from the supply management-settlement fund. Producers would be eligible for the refund if they maintained their milk production volume at a rate of increase of 1%, or less, compared to the prior year's production. All eligible producers

would receive a refund based on a flat rate per producer. One-half of the supply management-settlement fund would be distributed to eligible producers on a per producer basis. The amount of the flat rate refund would be determined by dividing the total number of eligible producers into one-half the value of the supply management-settlement fund.

In addition, eligible producers would receive a refund amount based on a price per hundredweight of their total volume of milk produced in the calendar year, up to a maximum of \$12,000. The other half of the supply management-settlement fund would be distributed on the per hundredweight

basis. The amount of this half of the refund would be determined by dividing the total volume of milk produced by eligible producers into one-half the value of the supply management-settlement fund to determine the rate per hundredweight each eligible producer would receive.

The assessment/refund program would provide a reward to those producers who stabilize their milk production and would create an incentive for all producers to maintain a stable, local supply of milk for the New England milk market.

All producers would share equally in the burden of funding this program through a reduction in the producer pay price. Only those producers who reduce or maintain their production level at 1% or less would be eligible for a refund. However, the program would not otherwise restrict the milk production of those producers who, for business reasons unrelated to the compact payments, choose to increase their milk

production at a rate greater than 1% per year.

It is the intention and judgment of the Commission that the combination of the proposed supply management assessment/refund program and the rules limiting compact payments on diverted and transferred milk will operate in coordination to regulate the supply of milk in New England relative to the consumer demand and to ensure that the compact payments do not create an incentive to generate supplies of milk in excess of the tolerance levels prescribed for diverted and transferred milk.

The Commission offers the following examples to assist interested persons in evaluating the proposed supply management program. Tables 5 and 6 show the estimated impact of the assessment/refund program on different size farms. The tables are based on the following assumptions. The monthly average production in the Compact pool in 1999 was approximately 556,900,000

pounds, with a yearly production of 6,682,800,000. Using an assessment figure of \$.05 per hundredweight, the total assessment/refund pool would be \$3,341,400 annually. Assuming there are 4,000 Compact eligible producers, the average cost of the assessment per producer would be \$835. The per hundredweight refund amount would be paid on the producers total annual production. The Commission estimates that 60–70% of producers could be eligible for the refund under the proposed program. Table 5 assumes that 60% (2,400) producers would be eligible for a refund and the per producer payment would be \$696 for all eligible producers and the per hundredweight refund rate would be \$.041. Table 6 assumes that 70% (2,800) of producers would be eligible for the refund and the per producer payment would be \$595 and the per hundredweight refund rate would be \$.035. Refund payments on a per hundredweight basis would not exceed \$12,000.

TABLE 5.—60% ELIGIBLE PRODUCERS

No. of cows	Pounds	Cost	\$/farm	\$/cwt	\$ Total	Net refund
40 .....	700,000	\$350	\$696	\$287	\$983	\$633
57 .....	1,000,000	500	696	410	1,106	606
86 .....	1,500,000	750	696	615	1,311	561
286 .....	5,000,000	2,500	696	2,050	2,746	246
1,144 .....	20,000,000	10,000	696	8,200	8,896	– 1,104

TABLE 6.—70% ELIGIBLE PRODUCERS

No. of cows	Pounds	Cost	\$/farm	\$/cwt	\$ Total	Net refund
40 .....	700,000	\$350	\$596	\$245	\$841	\$491
57 .....	1,000,000	500	596	350	946	446
86 .....	1,500,000	750	596	525	1,121	371
286 .....	5,000,000	2,500	596	1,750	2,346	– 154
1,144 .....	20,000,000	10,000	596	7,000	7,596	– 2,404

### III. Proposed Technical Amendments to the Over-Order Price Regulation

The Commission proposes to amend section 1306.3 and to add a new Part 1309 to provide the necessary regulations to implement the proposed supply management assessment/refund program. The Commission also proposes to make corresponding technical changes required by the specific amendments and additions to the current regulations.

The Commission proposes to amend section 1306.3, by first redesignating existing paragraphs (e) through (g) as paragraphs (f) through (h) and adding a new paragraph (e). The new paragraph will allow the Commission to withhold \$.05 from each monthly producer pool to fund the supply management-settlement fund.

A new Part 1309 is proposed to provide the regulations to implement the supply management program. Section 1309.1 defines producer qualifications for the refund program. Section 1309.2 defines the procedure for computing the refund prices to be paid to qualified producers. Section 1309.3 would provide the authority for the establishment of a supply management-settlement fund. Finally, section 1309.4 would describe the procedure for issuing payments to producers eligible for a refund under the supply management program.

#### Official Notice of Technical, Scientific or Other Matters

Pursuant to the Commission regulations, 7 CFR 1361.5(g)(5), the Commission hereby gives public notice

that it may take official notice, at the public hearing April 5, or afterward, of relevant facts, statistics, data, conclusions, and other information provided by or through the United States Department of Agriculture, including, but not limited to, matters reported by the National Agricultural Statistics Service, the Market Administrators, the Economic Research Service, the Agricultural Marketing Service and information, data and statistics developed and maintained by the Departments of Agriculture of the States or Commonwealth within the Compact regulated area and the November 1999 study conducted by the University of Vermont entitled "Impacts of the Northeast Interstate Dairy Compact on the New England Milk Supply."

The Commission will also receive into the record of this rulemaking proceeding the entire record, including the public hearing transcript and written comments and submissions, of the December 1998 subjects and issues rulemaking proceeding regarding whether additional supply management policies and provisions should be incorporated into the Over-order Price Regulation and the proposed rulemaking noticed on April 19, 1999 at 64 FR 19084 and the supplemental proposed rulemaking proceeding noticed on June 21, 1999 at 64 FR 33027.

### Public Participation in Rulemaking Proceedings

The Commission seeks and encourages oral and written testimony and comments from all interested persons regarding these proposed rules. The Commission continues to benefit from the valuable insights and active participation of all segments of the affected community including consumers, processors and producers in the development and administration of the Over-order Price Regulation.

### Date, Time and Location of the Public Hearing

The Northeast Dairy Compact Commission will hold a public hearing to commence at 1:00 p.m. on April 5, 2000 at the Wayfarer Inn, 121 S. River Road, U.S. Route 3, Bedford, New Hampshire.

### Written Comments and Exhibits

Pursuant to the Commission rules, 7 CFR 1361.4, any person may participate in the rulemaking proceeding independent of the hearing process by submitting written comments or exhibits to the Commission. Comments and exhibits may be submitted at any time before 5:00 p.m. on April 19, 2000.

**Please note:** Comments and exhibits will be made part of the record of the rulemaking proceeding only if they identify the author's name, address and occupation, and if they include a sworn and notarized statement indicating that the comment and/or exhibit is presented based upon the author's personal knowledge and belief. Facsimile copies will be accepted up until the 5:00 p.m. deadline, but the original must then be sent by ordinary mail.

### List of Subjects in 7 CFR Parts 1306, 1307 and 1309

Milk.

### Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission proposes to amend 7 CFR

parts 1306 and 1307 and to add a new part 1309 as follows:

### PART 1306—COMPACT OVER-ORDER PRODUCER PRICE

1. The authority citation for part 1306 continues to read as follows:

**Authority:** 7 U.S.C. 7256.

2. In § 1306.3 redesignate paragraphs (e) through (g) as paragraphs (f) through (h) and add a new paragraph (e) to read as follows:

#### § 1306.3 Computation of basic over-order producer price.

\* \* \* \* \*

(e) Subtract 5 cents per hundredweight from the basic over-order producer price computed pursuant to this section and deposit that amount in the supply management-settlement fund.

\* \* \* \* \*

### PART 1307—PAYMENTS FOR MILK

3. The authority citation for part 1307 continues to read as follows:

**Authority:** 7 U.S.C. 7256.

4. Section 1307.1 is amended in paragraphs (a), (b) and (c) by removing "1306.3(f)" and adding "1306.3(g)" in its place.

5. A new part 1309 is added to read as follows:

### PART 1309—SUPPLY MANAGEMENT REFUND PROGRAM

Sec.

1309.1 Producer qualification for supply management refund program.

1309.2 Computation of supply management refund prices.

1309.3 Supply management-settlement fund.

1309.4 Payment to producers of supply management refund.

**Authority:** 7 U.S.C. 7256.

#### § 1309.1 Producer qualification for supply management refund program.

A dairy farmer who is a qualified producer pursuant to § 1301.11 of this chapter for the entire refund year and the dairy farmer's milk production during the refund year is less than or the increase is not more than 1% of the milk production of the preceding calendar year.

#### § 1309.2 Computation of supply management refund prices.

The compact commission shall compute the supply management refund prices applicable to all qualified milk as follows:

(a) Combine into one total the values, including all interest earned, deducted

pursuant to § 1306.3(e) of this chapter for the refund year;

(b) Subtract 50% from the total value computed pursuant to paragraph (a) of this section to be used for the per farm payments to producers who submitted documentation pursuant to § 1309.4(a);

(c) Divide the resulting amount by the sum of all milk production reported by producers qualified pursuant to § 1309.1 and who submitted documentation pursuant to § 1309.4(a).

#### § 1309.3 Supply management-settlement fund.

(a) The compact commission shall establish and maintain a separate fund known as the supply management-settlement fund. It shall deposit into the fund all amounts deducted pursuant to § 1306.3(e) of this chapter. It shall pay from the fund all amounts due producers pursuant to § 1309.4;

(b) All amounts subtracted under § 1309.2(c), including interest earned thereon, shall remain in the supply management-settlement fund as an obligated balance until it is withdrawn for the purpose of effectuating § 1309.4;

(c) The compact commission shall place all monies subtracted under § 1306.3(e) of this chapter in an interest-bearing bank account or accounts in a bank or banks duly approved as a Federal depository for such monies, or invest them in short-term U.S. Government securities;

(d) If, after payments to producers of supply management refund pursuant to § 1309.4 there is a surplus in the fund, it is to be returned to the producer-settlement fund.

#### § 1309.4 Payment to producers of supply management refund.

(a) All producers who are qualified pursuant to § 1309.1 shall become eligible to receive payment of the supply management refund computed pursuant to § 1309.2 by submitting to the compact commission documentation that the producer milk production during the refund year is less than or the increase is not more than 1% of the milk production of the preceding calendar year. Such documentation shall be filed with the commission not later than 45 days after the end of the calendar year.

(b) The commission will make payment to all producers qualified pursuant to § 1309.1 and eligible pursuant to paragraph (a) of this section in the following manner:

(1) A per farm payment computed by dividing the amount subtracted pursuant to § 1309.2(b) by the total eligible producers; and

(2) The value determined by multiplying the supply management

refund price computed pursuant to § 1309.2(e) by the producer's milk pounds, not to exceed \$12,000.

Dated: March 2, 2000.

**Kenneth M. Becker,**  
*Executive Director.*

[FR Doc. 00-5585 Filed 3-7-00; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 113

[Docket No. 95-066-1]

#### Viruses, Serums, Toxins, and Analogous Products; Autogenous Biologics

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the Virus-Serum-Toxin Act regulations for autogenous biologics. The number of test summaries that autogenous biologics manufacturers must submit to the Animal and Plant Health Inspection Service would be reduced. In addition, we are proposing to amend the requirement concerning the submission to the Animal and Plant Health Inspection Service of containers selected from each serial of autogenous biologic that exceeds 50 containers. Manufacturers would be required to hold these containers and submission would not be required unless requested by the Animal and Plant Health Inspection Service. These actions would result in savings in time and resources for autogenous biologics manufacturers and the Animal and Plant Health Inspection Service without a significant reduction in regulatory oversight.

**DATES:** We will consider all comments that we receive by May 8, 2000.

**ADDRESSES:** Please send your comment and three copies to:

Docket No. 95-066-1, Regulatory Analysis and Development, PPD, APHIS Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 95-066-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to

help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>

**FOR FURTHER INFORMATION CONTACT:** Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Licensing and Policy Development, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737-1231; (301) 734-8245.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in title 9, Code of Federal Regulations (9 CFR), part 113 contain standard requirements for the preparation of veterinary biological products. Section 113.113 of the regulations sets forth the requirements for autogenous biologics. Autogenous biologics are prepared from cultures of microorganisms that are isolated from sick or dead animals of a particular flock or herd. The cultures are used to produce an autogenous veterinary biological product that is administered to other animals of the originating flock or herd to prevent them from being affected by the same disease. Autogenous biologics may also be used in adjacent and nonadjacent herds under certain conditions, if approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS).

Autogenous biologics are intended for use in isolated cases of diseases of animals when licensed products are not available or such products are unable to protect the vaccinated animals (e.g., the strain of microorganism in the licensed product differs from the strain associated with the disease outbreak). Autogenous biologics can also be used to respond to emergency outbreaks of diseases of animals when the immediate need for the product is such that it precludes the usual route of vaccine development.

Given the special circumstances pertaining to the preparation and use of autogenous biologics, including the need for a rapid response to emergencies, special testing and serial release reporting requirements have been applied. In § 113.113, paragraph (c)(1)(ii) allows first serials or subserials of an autogenous biologic that are satisfactory after the third day of observation of purity test cultures and safety test animals to be released for

shipment to the customer while the purity and safety tests are continued through the required period. Paragraph(c)(1)(iii) of § 113.113 provides that such serials must be immediately recalled if evidence of contamination occurs in the purity test cultures or if any of the test animals used to demonstrate product safety get sick or die during the observation period. However, because autogenous biologic products can be shipped prior to completion of testing, the products, in most cases, have been used in animals prior to the completion of testing. In addition, § 113.113(c)(1)(iv) requires autogenous biologics manufacturers to submit to APHIS the test summaries of the first serial or subserial within 4 days of the completion of the purity and safety tests. The test summaries must be submitted to APHIS in accordance with § 116.7 of 9 CFR part 116, "Records and Reports." (Section 116.7, in short, provides the requirements for maintenance of detailed records of all tests conducted on each serial and subserial and the preparation and submission of summaries of such tests using APHIS Form 2008 or an equivalent prior to release of the serial or subserial.)

In 1993, the last year for which full data are available, veterinary biologics manufacturers submitted approximately 11,400 autogenous biologics first serial test summaries to APHIS for processing, and the number of reports has increased in succeeding years. However, we believe that the requirement to submit test summaries from the first serial or subserial of an autogenous biologic within 4 days of completion of purity and safety tests for serials that may have already been used in animals is unnecessary. We believe that these reports can be submitted on a quarterly basis without reducing our regulatory oversight. Therefore, we are proposing to revise § 113.113(c)(iv) to provide that test summaries must be submitted on a quarterly basis as summary reports by the 21st day of January, April, July, and October, or more often as required by the Administrator.

Because we would allow the submission of test summaries on a quarterly basis, we would no longer refer to § 116.7.

#### Reserve Samples

Manufacturers of autogenous biologics are required by § 113.3 to submit to APHIS samples from each serial or subserial of an autogenous biologic for confirmatory purity and safety testing. In § 113.3, paragraph (b)(8) states that, in the case of