

Agricultural Marketing Service, USDA

§ 1170.7

(d) Announcement of the results of the referendum will be made only at the direction of the Secretary. The referendum agent or others who assist in the referendum shall not disclose the results of the referendum or the total number of ballots and votes cast.

§ 1160.608 Confidential information.

The ballots cast, the identity of any person who voted, or the manner in which any person voted and all information furnished to, compiled by, or in the possession of the referendum agent, except the list of eligible voters, shall be regarded as confidential.

§ 1160.609 Supplementary instructions.

The Administrator is authorized to issue instructions and to prescribe forms and ballots, not inconsistent with the provisions of this subpart, to govern the conduct of referenda by referendum agents.

PARTS 1161–1169 [RESERVED]

PART 1170—DAIRY PRODUCT MANDATORY REPORTING

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AUTHORITY: 7 U.S.C. 1637–1637b, as amended by Pub. L. 106–532, 114 Stat. 2541 and Pub. L. 107–171, 116 Stat. 207.

SOURCE: 73 FR 34181, June 17, 2008, unless otherwise noted.

§ 1170.1 Secretary.

Secretary means the Secretary of Agriculture of the United States or any

other officer or employee of USDA to whom authority has been delegated.

§ 1170.2 Act.

Act means the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 *et seq.*, as amended by the Dairy Market Enhancement Act of 2000, Public Law 106–532, 114 Stat. 2541, and the Farm Security and Rural Investment Act of 2002, Public Law 107–171, 116 Stat. 207.

§ 1170.3 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

§ 1170.4 Dairy products.

Dairy Products means:

- (a) Manufactured dairy products that are used by the Secretary to establish minimum prices for Class III and Class IV milk under a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and
- (b) Substantially identical products designated by the Secretary in this part.

§ 1170.5 Manufacturer.

Manufacturer means any person engaged in the business of buying milk in commerce for the purpose of manufacturing dairy products in one or more locations.

§ 1170.6 Store.

(a) *Store* means to place cheese or butter in a warehouse or facility which is artificially cooled to a temperature of 50 degrees Fahrenheit or lower and hold these dairy products for 30 days or more; or

(b) *Store* means to place nonfat dry milk or dry whey in a manufacturing plant, packaging plant, distribution point, or shipment in transit.

DAIRY PRODUCT REPORTING PROGRAMS

§ 1170.7 Reporting requirements.

(a) All dairy product manufacturers, with the exception of those who are exempt as described in § 1170.9, shall submit a report to National Agricultural Statistics Service (NASS) by noon on

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Wednesday of all products sold as specified in § 1170.8 during the seven days ending with the previous Saturday. If a Federal holiday falls on a Tuesday or Wednesday, NASS will contact manufacturers via e-mail or phone concerning the applicable report deadline. The report is to be submitted on the appropriate forms supplied by NASS and shall indicate the name, address, plant location(s), quantities sold, total sales dollars or dollars per pound for the applicable products, and the moisture content where applicable. Each sale shall be reported for the time period when the transaction is completed, i.e. the product is "shipped out" and title transfer occurs. Each sale shall be reported either f.o.b. plant if the product is "shipped out" from the plant or f.o.b. storage facility location if the product is "shipped out" from a storage facility. In calculating the total dollars received or dollars per pound, the reporting entity shall neither add transportation charges incurred at the time the product is "shipped out" or after the product is "shipped out" nor deduct transportation charges incurred before the product is "shipped out." In calculating the total dollars received or dollars per pound, the reporting entity shall not deduct brokerage fees or clearing charges paid by the manufacturer.

(b) Manufacturers or other persons storing dairy products are required to report, on a monthly basis, stocks of dairy products (as defined in § 1170.4) on hand, on the appropriate forms supplied by the NASS. The report shall indicate the name, address, and stocks on hand at the end of the month for each storage location.

§ 1170.8 Price reporting specifications.

The following are the reporting specifications for each dairy product:

(a) Specifications for Cheddar Cheese Prices:

- (1) Variety: Cheddar cheese.
- (2) Style: 40-pound blocks or 500-pound barrels.
- (3) Moisture Content:
 - (i) 40-pound blocks: Moisture content is not reported. Exclude cheese that will be aged.

- (ii) 500-pound barrels: Report weighted average moisture content of cheese sold. NASS will adjust price to a benchmark of 38.0 percent based on standard moisture adjustment formulas. Exclude cheese with moisture content exceeding 37.7 percent.

- (4) Age: Not less than 4 days or more than 30 days on date of sale.

- (5) Grade:

- (i) 40-pound blocks: Product meets Wisconsin State Brand or USDA Grade A or better standards.

- (ii) 500-pound barrels: Product meets Wisconsin State Brand or USDA Extra Grade or better standards.

- (6) Color:

- (i) 40-pound blocks: colored and within the color range of 6-8 on the National Cheese Institute color chart.

- (ii) 500-pound barrels: white.

- (7) Packaging:

- (i) 40-pound blocks: Price should reflect cheese wrapped in a sealed, airtight package in corrugated or solid fiberboard containers with a reinforcing inner liner or sleeve. Exclude all other packaging costs from the reported price.

- (ii) 500-pound barrels: Exclude all packaging costs from the reported price.

- (8) Exclude: Intra-company sales, resales of purchased cheese, forward pricing sales (sales in which the selling price was set [not adjusted] 30 or more days before the transaction was completed), cheese produced under faith-based close supervision and marketed at a higher price than the manufacturer's wholesale market price for the basic commodity (for example, kosher cheese produced with a rabbi on site who is actively involved in supervision of the production process), sales under the Dairy Export Incentive Program or other premium-assisted sales (for example, export assistance sales through the Cooperatives Working Together program), and cheese certified as organic by a USDA-accredited certifying agent.

- (b) Specifications for Butter Prices:

- (1) Variety: 80 percent butterfat, salted, fresh or storage.

- (2) Grade: Product meets USDA Grade AA standards.

- (3) Packaging: 25-kilogram and 68-pound box sales.