

## § 1170.7

### 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 weekly to the Agricultural Marketing Service (AMS) by Tuesday, 12 noon local time of reporting entities, on all products sold as specified in § 1170.8 during the 7 days ending 12 midnight of the previous Saturday, local time of the plant or storage facility where the sales are made. If a Federal holiday falls on Monday through Wednesday of a particular week, the due date for report submission may be adjusted. Prior to the beginning of each calendar year, AMS shall release, to manufacturers that are required to report, the times and dates that reports are due. For the applicable products, the report shall be submitted by electronic means specified by AMS and shall indicate the name, address, plant location(s), quantities sold, total sales dollars, dollars per pound, 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 and 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 and 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 National Agricultural Statistic Service. The report shall indicate the name, address, and stocks on hand

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at the end of the month for each storage location.

[77 FR 8721, Feb. 15, 2012]

#### § 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. AMS 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

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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.

(4) Exclude: Unsalted and Grade A butter, intra-company sales, resales of purchased butter, forward pricing sales (sales in which the selling price was set [not adjusted] 30 or more days before the transaction was completed), butter 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 butter 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 CWT program), and butter certified as organic by a USDA-accredited certifying agent.

(c) Specifications for Dry Whey Prices:

(1) Variety: Edible nonhygroscopic.

(2) Age: No more than 180 days.

(3) Grade: Product meets USDA Extra Grade standards.

(4) Packaging or container: 25-kilogram bag, 50-pound bag, tote, or tanker.

(5) Exclude: Sales of Grade A dry whey, intra-company sales, resales of purchased dry whey, forward pricing sales (sales in which the selling price was set [not adjusted] 30 or more days before the transaction was completed), dry whey 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 dry whey produced with a rabbi on site who is actively involved in supervision of the production process), premium-assisted sales, and dry whey certified as

organic by a USDA-accredited certifying agent.

(d) Specifications for the Nonfat Dry Milk Prices:

(1) Variety: Non-fortified.

(2) Age: No more than 180 days.

(3) Grade: Product meets USDA Extra Grade or USPH<sup>2</sup> Grade A standards.

(4) Packaging or container: 25-kilogram bag, 50-pound bag, tote, or tanker.

(5) Exclude: Nonfat dry milk manufactured using high heat process, sales of instant nonfat dry milk, sales of dry buttermilk products, intra-company sales, resales of purchased nonfat dry milk, forward pricing sales (sales in which the selling price was set [not adjusted] 30 or more days before the transaction was completed), nonfat dry milk 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 nonfat dry milk 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, and nonfat dry milk certified as organic by a USDA-accredited certifying agent.

[73 FR 34181, June 17, 2008, as amended at 77 FR 8721, Feb. 15, 2012]

### § 1170.9 Price reporting exemptions.

(a) Any manufacturer that processes and markets less than 1 million pounds of cheddar cheese per calendar year is exempt from reporting cheddar cheese sales as specified in § 1170.8(a).

(b) Any manufacturer that processes and markets less than 1 million pounds of butter per calendar year is exempt from reporting butter sales as specified in § 1170.8(b).

(c) Any manufacturer that processes and markets less than 1 million pounds of dry whey per calendar year is exempt from reporting dry whey sales as specified in § 1170.8(c).

(d) Any manufacturer that processes and markets less than 1 million pounds of nonfat dry milk per calendar year is

<sup>2</sup>USPH refers to the US Department of Health and Human Services—Public Health Service/Food and Drug Administration.