

\$3,640 (\$3,822), major purchase, \$2,125 (\$2,250), and (\$2,425) for property tax, for which no funding was recommended this year. All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of \$0.0030 per hundredweight, \$0.0006 less than last season. This rate, when applied to anticipated potato shipments of 16,500,000 hundredweight, will yield \$49,500 in assessment income. This, along with \$12,828 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds of \$101,064 in the Committee's authorized reserve at the beginning of the 1994-95 fiscal period were within the maximum permitted by the order of two fiscal periods' expenses.

An interim final rule was published in the **Federal Register** on June 21, 1995 (60 FR 32260). That interim final rule added § 948.214 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could file comments through July 21, 1995. No comments were received.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal period begins on September 1, 1995. The marketing order requires that the rate of assessment for the fiscal period apply to all assessable potatoes handled during the fiscal period. In addition, handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Note: This section will not appear in the Code of Federal Regulations.

PART 948—IRISH POTATOES GROWN IN COLORADO

Accordingly, the interim final rule amending 7 CFR part 948, which was published at 60 FR 32260 on June 21, 1995, is adopted as a final rule without change.

Dated: August 1, 1995.

Martha B. Ransom,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 95-19460 Filed 8-7-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 1126

[DA-95-16]

Milk in the Texas Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document continues the suspension of segments of the pool plant and producer milk definitions of the Texas order for a two-year period. Associated Milk Producers, Inc., a cooperative association that represents producers who supply milk to the market, requested continuation of the suspension. Continuation of this suspension is necessary to insure that dairy farmers who have historically supplied the Texas market will continue to have their milk priced under the Texas order without incurring costly and inefficient movements of milk.

EFFECTIVE DATE: August 1, 1995, through July 31, 1997.

FOR FURTHER INFORMATION CONTACT:

Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9368.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued May 26, 1995; published June 2, 1995 (60 FR 28745).

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 proposed rule will not have a significant economic impact on a substantial number of small entities. This rule will tend 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 Department is issuing this rule in conformance with Executive Order 12866.

This suspension of rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect and 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 date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Act, as amended, and the rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Notice of proposed rulemaking was published in the **Federal Register** (60 FR 28745) on June 2, 1995, concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. No comments were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of August 1, 1995, through July 31, 1997, the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In section 1126.7(d) introductory text, the words "during the months of

February through July" and the words "under paragraph (b) or (c) of this section".

2. In section 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

3. In section 1126.13(e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

4. In section 1126.13, paragraph (e)(2).

5. In section 1126.13(e)(3), the sentence "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;".

Statement of Consideration

This rule continues the suspension of segments of the pool plant and producer milk provisions under the Texas order. This suspension will be in effect from August 1, 1995, through July 31, 1997. The current suspension will expire July 31, 1995. This rule continues the suspension of: (1) The 60 percent delivery standard for pool plants operated by cooperatives; (2) the diversion limitation applicable to cooperative associations; (3) the limits on the amount of milk that a pool plant operator may divert to nonpool plants; (4) the shipping standards that must be met by supply plants to be pooled under the order; and (5) the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order permits a cooperative association plant located in the marketing area to be a pool plant if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool distributing plants during the month. In addition, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received during the month at handlers' pool plants. The order also provides that the operator of a pool plant may divert

to nonpool plants not more than one-third of the milk that is physically received during the month at the handler's pool plant. This suspension continues to inactivate the 60 percent delivery standard for plants operated by a cooperative association and removes the diversion limitations applicable to a cooperative association and to the operator of a pool plant.

The order also provides for regulating a supply plant each month in which it ships a sufficient percentage of its receipts to distributing plants. The order provides for pooling a supply plant that ships 15 percent of its milk receipts during August and December and 50 percent of its receipts during September through November and January. A supply plant that is pooled during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. This suspension continues the current suspension of these performance standards for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also specifies that the milk of each producer must be physically received at a pool plant in order to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for diversion eligibility. This rule continues to suspend these requirements.

Renewal of the suspension was requested by Associated Milk Producers, Inc., a cooperative association that represents a substantial number of dairy farmers who supply the Texas market. The cooperative stated that marketing conditions have not changed since the provisions were suspended in 1993 or since March 1995 when the suspension was expanded to include all of paragraph (e)(2), and therefore should be continued until restructuring of the order can be achieved through the formal rulemaking process.

Continuation of the current suspension is necessary to insure that dairy farmers who have historically supplied the Texas market will continue to have their milk priced under the Texas order, thereby receiving the benefits that accrue from such pooling. In addition, the suspension will continue to provide handlers the flexibility needed to move milk supplies in the most efficient manner and to eliminate costly and inefficient

movements of milk that would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the market.

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

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1126

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions in Title 7, part 1126, are amended as follows:

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. The authority citation for 7 CFR Part 1126 is revised to read as follows:

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

§ 1126.7 [Suspended in part]

2. In § 1126.7(d) introductory text, the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section" are suspended.

3. In § 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested" are suspended.

§ 1126.13 [Suspended in part]

4. In § 1126.13(e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant" are suspended.

5. In § 1126.13, paragraph (e)(2) is suspended.

6. In § 1126.13(e)(3), the sentence "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;" is suspended.

Dated: August 1, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-19461 Filed 8-7-95; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL TRADE COMMISSION
16 CFR Part 234
Guides for the Mail Order Insurance Industry

AGENCY: Federal Trade Commission.

ACTION: Elimination of guides.

SUMMARY: The Guides for the Mail Order Insurance Industry were adopted in 1964 to prevent deception of purchasers of insurance and maintenance of fair competition by out-of-state mail order sellers of insurance. Since issuance of the Guides, state insurance laws have changed significantly. The states, through their licensing powers, now regulate out-of-state mail order sellers of insurance. Those regulations cover most, if not all, of the substantive areas addressed by the Guides. These facts appear to make the Guides unnecessary. Because of these changed circumstances, the Commission has determined that it is in the public interest to eliminate the Guides for the Mail Order Insurance Industry. The Commission further has determined that, because the reasons to revoke the Guides are ample and not in controversy, it is unnecessary to seek comment. This action is not to be understood as a statement that the principles announced in the Guides do not reflect the requirements of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

EFFECTIVE DATE: August 8, 1995.

ADDRESSES: Requests for copies of this notice should be sent to the Public Reference Branch, Room 130, Federal

Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Daynard or Walter Gross, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3291 or (202) 326-3319.

SUPPLEMENTARY INFORMATION: The Guides for the Mail Order Insurance Industry were issued on May 15, 1964.¹ Designed to prevent deception and the maintenance of fair competition in the out-of-state mail order insurance industry, the Guides prohibit several forms of potential misrepresentation in advertising concerning the benefits, conditions, terms, identity, and claims paid for any insurance policy; the identity, standing in the industry, or financial condition of the insurer, and the disparagement of competitors or competitors' policies, services, or business methods.

As a part of its periodic review of the regulatory and economic impact of the Commission's rules and guides, the Commission reviewed the current status of state laws regulating mail order insurance sellers to determine whether there was a need to retain or remove the Guides. That review indicates that state insurance laws have changed substantially since the Guides were adopted in 1964.

All states have enacted some version of the model Unfair Trade Practices Act for insurance (National Ass'n of Insurance Commissioners). Those laws cover most, if not all, of the substantive areas covered by the Guides. In addition, at least 49 states have adopted the Nonadmitted Insurance Act (1983) (National Ass'n of Insurance Commissioners), or similar legislation, which: (1) Provides that no insurer shall transact business in the state, whether by mail or otherwise, without first obtaining a license; and (2) authorizes the state regulatory authority to require compliance with all state insurance laws as a condition of licensing. If licensing requirements, including compliance with the state's Unfair Trade Practices Act, are not met, the state can suspend or revoke the license.

These changes in state insurance laws appear to make the Guides' provisions unnecessary. Accordingly, the Commission has determined that it is in the public interest to eliminate the Guides.

List of Subjects in 16 CFR Part 234

Advertising, Insurance, Postal Service, Trade practices.

¹ 29 FR 6381 (1964).

PART 234—[REMOVED]

The Commission, under authority of sections 5 (a)(1) and 6(g) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1) and 46(g), amends chapter I of title 16 of the Code of Federal Regulations by removing Part 234.

By direction of the Commission.

Donald S. Clark,
Secretary.

Statement of Commissioner Mary L. Azcuenaga Concurring in 16 CFR Part 14, Matter No. P954215; Repeal of Mail Order Insurance Guides, Matter No. P954903; Repeal of Guides Re: Debt Collection, Matter No. P954809; and Free Film Guide Review, Matter No. P959101

In a flurry of deregulation, the Commission today repeals or substantially revises several Commission guides and other interpretive rules.¹ The Commission does so without seeking public comment. I have long supported the general goal of repealing or revising unnecessary, outdated, or unduly burdensome legislative and interpretive rules, and I agree that the repeal or revision of these particular guides and interpretive rules appears reasonable. Nevertheless, I cannot agree with the Commission's decision not to seek public comment before making these changes.

Although it is not required to do so under the Administrative Procedure Act, 5 U.S.C. 553(b)(A), the Commission traditionally has sought public comment before issuing, revising, or repealing its guides and other interpretive rules. More specifically, the Commission adopted a policy in 1992 of reviewing each of its guides at least once every ten years and issuing a request for public comment as part of this review. See FTC Operating Manual ch. 8.3.8. The Commission decided to seek public comment on issues such as:

(1) The economic impact of and continuing need for the guide; (2) changes that should be made in the guide to minimize any adverse economic effect; (3) any possible conflict between the guide and any federal, state, or local laws; and (4) the effect on the guide of technological, economic, or other industry changes, if any, since the guide was promulgated.

Id. The Commission has sought public comment and has posed these questions concerning a number of guides since adopting its procedures for regulatory review in 1992.²

Notwithstanding its long-standing, general practice of seeking public comment and its

¹ Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements, 16 C.F.R. Part 14; Guides for the Mail Order Insurance Industry, 16 C.F.R. Part 234; Guides Against Debt Collection Deception, 16 C.F.R. Part 237; and Guide Against Deceptive Use of the Word "Free" In Connection With the Sale of Photographic Film and Film Processing Services, 16 C.F.R. Part 242.

² See, e.g., Request for Comments Concerning Guides for the Hosiery Industry, 59 FR 18004 (Apr. 15, 1994); Request for Comment Concerning Guides for the Feather and Down Products Industry, 59 FR 18006 (Apr. 15, 1994).