

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Parts 1306, 1307, 1309 and 1310

Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Supplemental proposed rule; reopening of comment period; notice of hearings.

SUMMARY: The Northeast Dairy Compact Commission is continuing to consider whether to amend the over-order price regulation to establish a supply management program. The Commission previously proposed an assessment/refund program and is slightly modifying that proposed program. As an alternative to the assessment/refund program, the Commission is now also proposing a base/excess program. The Commission is reopening the comment period and is requesting additional comment and testimony on each of these proposed programs.

DATES: Written comments and exhibits may be submitted until 5:00 p.m., August 18, 1999. See **SUPPLEMENTARY INFORMATION** section for public hearing dates and filing dates for pre-filed testimony.

ADDRESSES: Mail, or deliver, sworn and notarized testimony, comments and exhibits to: Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, Vermont 05602. See **SUPPLEMENTARY INFORMATION** section for public hearing locations.

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. Public Hearing Dates, Times and Locations; Filing Dates for Written Comments

The public hearing dates and locations are:

1. July 7, 1999, 7:00 p.m. at the Storowton Village White Church Meeting House, Eastern States Exposition, 1305 Memorial Avenue, on MA 147, Gate 2, West Springfield, MA.

2. August 4, 1999, 7:00 p.m. at the North Stage Opera House, Exit 11, I-91, White River Junction, VT.

3. Pre-filed testimony is encouraged and may be submitted to the Northeast Dairy Compact Commission at the address in the **ADDRESSES** section by 12:00 p.m. June 30, 1999 for the July 7 hearing and by 12:00 p.m. July 28, 1999 for the August 4 hearing.

II. 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.

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, 1997.¹ The Commission subsequently amended and extended the compact over-order price regulation.² In 1998, the Commission further amended specific provisions of the over-order price regulation.³ The current compact over-order price regulation is codified at 7 CFR Chapter XIII. The Commission published additional regulatory background information in the original notice of the proposed supply management plan at 64 FR 19084 (April 19, 1999). A public hearing on the proposed supply management plan was held on May 5,

1999 and comments were received until May 19, 1999. Following review of the public testimony and comments received, the Commission is requesting additional comments, extending the comment period, holding two additional public hearings and is also proposing an alternative supply management program.

III. Proposed Supply Management Programs

The proposed supply management programs are 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 Commission is proposing to implement one of two distinct programs to address its responsibilities under Section 9(f) of the Compact. One is an assessment/refund program and the other is a base/excess program. The two programs are presented separately below.

It is the intention and judgment of the Commission that the combination of a supply management program and the recently promulgated rules limiting compact payments on diverted and transferred milk⁴ 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 and deemed to be necessary to assure New England "consumers of an adequate, local supply of pure and wholesome milk."⁵

Assessment/Refund Program

The Commission initially proposed an assessment/refund program at 64 FR 19084 (April 19, 1999). The Commission proposes slight modifications to that program and requests comments on that program, as modified. The modified proposed program would require the Commission to reduce the producer pay price by five cents per hundredweight in months when there are compact producer payments. No obligation

¹ 62 FR 29626 (May 30, 1997).

² 62 FR 62810 (Nov. 25, 1997).

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

⁴ 63 FR 65517 (Nov. 27, 1998).

⁵ Compact, Art. I, Sec. 1.

would accrue if there is no compact producer payment in a particular month. These funds would be accumulated in an escrow 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. There would be two categories of producers eligible for the refund: (1) Producers who reduced their production as compared to their prior year's production level; and (2) producers who maintained their milk production level at a rate of increase not more than 1% 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, producers who reduced their milk production, compared to the prior year's production, would receive a refund amount based on a price per hundredweight of reduced milk

production. There would be a maximum refund per producer of \$12,000 for the per hundredweight payment. The maximum would only apply to the per hundredweight portion of the refund and the producer would still be eligible for the per producer portion of the refund.

The assessment/refund program would be intended to assure that compact payments do not create an incentive for producers to generate additional supplies of milk by creating 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 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, chose to increase their milk production at a rate greater than 1% per year.

The Commission would also change the regulation regarding any balance left in an account established to meet a potential liability to the Commodity Credit Corporation. The supply management program would be designed to meet the Commission's

responsibilities under section 9(f) of the Compact, and therefore, any balance in a CCC escrow account would be returned to the producer-settlement fund for distribution to all producers in the next producer pool.

The Commission offers the following examples to assist interested persons in evaluating the modified proposed assessment/refund program. In calendar year 1998, there was a compact producer price for eight months and there was no compact payment for four months. Applying the proposed program to the actual circumstances of 1998 would result in an accumulated supply management-settlement fund balance of \$2,201,700. The proposed program would withhold five cents per hundredweight in the eight months there was a compact payment and there would be no withholding in the four months with no compact payment. This would result in an overall assessment of \$.0336 per hundredweight for all producers for the calendar year.

Table 1 shows the cost per producer of a reduction in the producer pay price of \$.0336 per hundredweight on a monthly and annual basis. As discussed above, the \$.0336 reduction in the producer pay price is the proposed cost of funding the supply management-settlement fund, averaged over the twelve months in 1998.

TABLE 1.—COST OF SUPPLY MANAGEMENT ASSESSMENT TO SELECTED SIZE FARMS

Number of cows	Pounds	Reduced rate/cwt	Cost per month	Cost per year
40	700,000	\$.0336	\$20	\$235
57	1,000,000	.0336	28	336
86	1,500,000	.0336	42	504
286	5,000,000	.0336	140	1,680
1,144	20,000,000	.0336	560	6,720

The examples in Tables 2 and 3 assume that each size farm reduces production by five percent compared to the prior year's production. The proposed supply management program would pay one-half of the supply management-settlement fund on a per producer, flat rate basis, and the other half on a rate per hundredweight of the

producer's reduced milk production. The values used in the examples are determined by assuming that 1,000 producers are eligible for the supply management refund, and eligible producers reduced milk production by 91 million pounds. These assumptions result in a per producer refund payment

of \$1,100 and a per hundredweight rate of \$1.20.

Table 2 shows the yearly refund different size farms would receive under the proposed assessment/refund program. The table also reflects the effect of the proposed \$12,000 per hundredweight refund maximum.

TABLE 2.—YEARLY REFUND FROM SUPPLY MANAGEMENT PROGRAM: SELECTED SIZE FARMS

Number of cows	Pounds	Reduced pounds	Reduced rate/cwt	Rate/cwt refund	Per farm refund	Total refund
40	700,000	35,000	\$1.20	\$420	\$1,100	\$1,520
57	1,000,000	50,000	1.20	600	1,100	1,700
86	1,500,000	75,000	1.20	900	1,100	2,000
286	5,000,000	250,000	1.20	3,000	1,100	4,100
1,144	20,000,000	1,000,000	1.20	12,000	1,100	13,100

Table 3 shows the yearly financial benefit to different size farms of the proposed assessment/refund program, up to the proposed \$12,000 per hundredweight maximum refund. Based

on the assumptions used in the example, the cost of the program is about one-half of the total refund at the point when the \$12,000 per hundredweight maximum would apply.

This point would vary based on other assumptions such as a higher or lower percentage of reduced milk production, the per hundredweight payment rate and the yearly cost of the program.

TABLE 3.—YEARLY BENEFITS FROM SUPPLY MANAGEMENT PROGRAM: SELECTED SIZE FARMS

Number of cows	Total refund	Less cost	Net refund
40	\$1,520	\$235	\$1,285
57	1,700	336	1,364
86	2,000	504	1,496
286	4,100	1,680	2,420
1,144	13,100	6,720	6,380

Table 4 shows the increased income a producer would have received in 1998, on only the volume of milk produced in excess of the prior year's production. The table uses the assumption that the rate of increased

production was 1.8%. This is the rate of increased production in the compact region the Commodity Credit Corporation used to set the amount due from the Compact Commission in 1998. The table also applies the average

compact over-order producer price for 1998 of \$.286. The last column shows the compact payment to the producer for the increased milk production.

TABLE 4.—YEARLY INCREASED INCOME ON AVERAGE PERCENTAGE INCREASED PRODUCTION

Number of cows	Pounds	% increase	Increase lbs.	Av. price	Increase \$
40	700,000	1.8	12,600	\$.286	\$36
57	1,000,000	1.8	18,000	.286	51
86	1,500,000	1.8	27,000	.286	77
286	5,000,000	1.8	90,000	.286	257
1,144	20,000,000	1.8	360,000	.286	1,029

Table 5 shows the comparison between the compact income (reduced income) a producer would not receive due to decreasing production by five (5) percent, and the financial benefit for

that production decrease under the proposed supply management program. The table applies the average compact producer price of \$.286 for 1998 to compute the value of reduced income

and applies the same assumptions as used in Table 3 to show the effect, including the cost to the producer, of the proposed supply management program (SMP).

TABLE 5.—COMPARISON OF REDUCED COMPACT INCOME TO SUPPLY MANAGEMENT BENEFITS FOR 5% PRODUCTION DECREASE

Number of cows	Reduced pounds	Average price	Reduced income	Net SMP refund	Net income increase
40	35,000	\$.286	\$100	\$1,285	\$1,185
57	50,000	.286	143	1,364	1,221
86	75,000	.286	214	1,496	1,282
286	250,000	.286	715	2,420	1,705
1,144	1,000,000	.286	2,860	6,380	3,520

Base/Excess Program

The Commission also requests comments on a proposed base/excess program, as an alternative to the proposed assessment/refund program. Under the proposed base/excess program, all compact qualified producers would be assigned a base production level for each month. The base would be the equivalent of the volume of milk produced in the same month in the prior calendar year. Producers would be required to have been qualified to receive compact payments in each month that is used as

a base month. Producers who were not qualified to receive compact payments in the same month in the prior calendar year, would be assigned a base of 90% of their current monthly milk production in the months of January, February, July, August, September, October, November and December and 80% of their current monthly milk production in the months of March, April, May and June. Producers would then receive compact payments on only their base production volume, or actual production volume, whichever is less. Any amount of milk produced in excess

of the base would not receive compact payments.

Under the proposed program, a base could be transferred from one producer to another only under very limited circumstances. For example, a partnership of two producers could dissolve and each producer take as his individual base the same percent of the partnership base as he had percent ownership in the partnership, or two or more producers may combine their bases if they form a partnership operating one farm. If a producer operates more than one farm, then each

farm would have a separate base, unless the farms and herds are combined into one dairy farm, in which case the separate bases may be combined into one base, if approved by the Commission. In addition, the name of the baseholder could be changed to another member of the baseholder's immediate family if the milk produced is from the same herd and on the same farm and the change is approved by the Compact Commission.

Handlers who operate pool plants and receive milk from producers, and cooperative associations, in their capacity as a handler, would be required to provide the necessary documentation to the Commission on each producer's monthly milk production. The documentation would be required two times a year. The Commission would use this data to notify each producer, and the handler or cooperative association receiving the producer's milk, of the monthly base. The Commission would notify producers of the base for the months of January through June by January and the base for

the months of July through December by July of each calendar year.

If the estimated rate of milk production in the compact region exceeds the national rate of increase for the period October through September of the current year, then the Commission would not adjust the producer base for the following calendar year and the producer base would be frozen at the monthly base then in effect. After the conclusion of a period from October 1 through September 30 when the estimated rate of milk production in the compact region does not exceed the national rate of increase, then the monthly producer base would be adjusted in the next calendar year to the volume of milk produced in the same month in the prior calendar year.

The base/excess program would be intended to assure that compact payments do not create an incentive for producers to generate additional supplies of milk by creating an incentive for all producers to maintain a stable, local supply of milk for the New England milk market.

The Commission offers the following examples to assist interested persons in evaluating the proposed base/excess program. The tables show the impact of the proposed program on different size farms. The actual pool values for April 1999 milk were used to develop the rate per hundredweight for the tables, with the assumption that 96.5% of the milk volume would be "base" milk and 3.5% of the milk volume would be "excess" milk for which no compact payment would be made.

Table 6 shows the comparison of the monthly compact value for selected size farms to the compact value without the base/excess program. The table assumes that each farm produces milk at the same volume as its base. With the assumptions used in Table 6, the effective compact rate (which is the amount of the compact payment the producer receives divided by the volume of all milk produced, including the excess when applicable) is \$1.48 per hundredweight.

TABLE 6.—Monthly Benefits From Base/Excess Program for Selected Size Farms: No Increase in Milk Production

Number of cows	Base lbs	\$/cwt	Value	Actual lbs	\$/cwt	Value	Difference
40	58,000	1.48	\$858	58,000	1.43	829	29
57	83,000	1.48	1,228	83,000	1.43	1,187	41
86	125,000	1.48	1,850	125,000	1.43	1,787	63
286	417,000	1.48	6,172	417,000	1.43	5,963	209
1144	1,667,000	1.48	24,672	1,667,000	1.43	23,838	834

Table 7 is based on all the same assumptions as Table 6, except it shows the impact on the monthly compact value to the producer if milk production is reduced by 5% as compared to the producer's base for the month. The

compact payments would be made on the lesser of the base production level or the actual production level. With the assumptions used in Table 7, the effective compact rate (which is the amount of the compact payment the

producer receives divided by the volume of all milk produced, including the excess when applicable) is 1.48 per hundredweight.

TABLE 7.—MONTHLY BENEFITS FROM BASE/EXCESS PROGRAM FOR SELECTED SIZE FARMS: 5% REDUCTION IN MILK PRODUCTION

Number of cows	Base lbs	Actual lbs	Value@ \$1.48/cwt	Actual lbs	Value@ \$1.43/cwt	Difference
40	58,000	55,000	\$814	55,000	\$787	\$27
57	83,000	79,000	1,169	79,000	1,129	40
86	125,000	119,000	1,761	119,000	1,702	59
286	417,000	396,000	5,861	396,000	5,663	198
1144	1,667,000	1,584,000	23,443	1,584,000	22,651	792

Table 8 also uses the same assumptions as Table 6, but shows the impact on the monthly compact value to the producer of a 5% increase in milk production over the base. As the table demonstrates, the compact value becomes a negative, because no compact

payment is made on the 5% excess of milk produced over the base, even though the rate per hundredweight paid on the base is increased by five cents when "excess" milk is excluded from the pool. With the assumptions used in Table 8, the effective compact rate

(which is the amount of the compact payment the producer receives divided by the volume of all milk produced, including the excess when applicable) is \$1.41 per hundredweight.

TABLE 8.—MONTHLY BENEFITS FROM BASE/EXCESS PROGRAM FOR SELECTED SIZE FARMS: 5% INCREASE IN MILK PRODUCTION

Number of cows	Base lbs	Value@ \$1.48/cwt	Actual lbs	Value@ \$1.43/cwt	Difference
40	58,000	\$858	61,000	\$872	—\$14
57	83,000	1,228	87,000	1,244	—\$16
86	125,000	1,850	131,000	1,873	—\$23
286	417,000	6,172	438,000	6,263	—\$91
1144	1,667,000	24,672	1,750,000	25,025	—\$353

IV. Proposed Technical Amendments to the Over-Order Price Regulation

In conjunction with implementing a supply management program, either the proposed assessment/refund plan or the base/excess plan, the Commission proposes to amend section 1306.3(c) to delete subsections (1) and (2) and to specify that any surplus remaining in an escrow account established to meet a potential obligation to the Commodity Credit Corporation (CCC) would be returned to the producer-settlement fund for distribution to all producers. These changes eliminate the current provisions for returning the surplus funds to only those producers who did not increase production in the federal fiscal year. The Commission proposes this change because, with the implementation of a specific supply management program, the limitation on the CCC refund of a surplus to only those producers who did not increase production would no longer be appropriate.

Assessment Refund Program

The Commission proposes to amend sections 1306.3(c) and (e) 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 five cents per hundredweight from the 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 and establishing a maximum per hundredweight payment of \$12,000.

If these proposed amendments are adopted corresponding technical amendments to referencing redesignated paragraphs in section 1306.3 will also be necessary.

Base/Excess Program

The Commission proposes to add a new Part 1310 to provide the regulations to implement the base/excess supply management program. Section 1310.1 would define *base milk* and section 1310.2 would define *excess milk*.

Section 1310.3 would provide the method for computing the base for each producer, including new producers, and also would specify the circumstances under which the base period would not automatically be updated from one calendar year to the next. As proposed in section 1310.3(c), if the estimated rate of milk production in the compact region exceeds the national rate of increase for the period October through September of the current year, then the Commission would not adjust the producer base for the following calendar year and the producer base would be frozen at the monthly base then in effect. After the conclusion of a period from October 1 through September 30 when the estimated rate of milk production in the compact region does not exceed the national rate of increase, then the monthly producer base would be adjusted in the next calendar year to the volume of milk produced in the same month in the prior calendar year.

Section 1310.4 specifies the limited circumstances under which a producer base could be transferred. Section 1310.5 would require the Commission to notify each producer, the handler receiving the producer's milk and the producer's cooperative association, of the monthly base. This notice would be provided twice a year, on or before January and July, with each notice

providing the base for the next six-month period.

Section 1310.6 would establish the responsibility of handlers who operate a pool plant and receive milk from producers and cooperative associations in their capacity as a handler to provide the documentation to the Commission of each producer's monthly milk production. The documentation would be required every six months. This section would also specify that if the handler failed to provide the documentation, then the Commission would establish the producer base according to the method used to establish the base of new producers.

If these proposed amendments are adopted, the Commission also proposes to make corresponding technical changes required by the specific amendments and additions to the current regulations.

V. Specific Requests for Comments, Data and Testimony

The Commission is considering implementing one of the two proposed programs and encourages all interested persons to provide comments and testimony on each proposal. In addition, the Commission is specifically requesting comments, data and testimony on the following issues:

Assessment/Refund Program

1. The level of refund payment that would best meet the purposes of the supply management program and the level of assessment necessary to accomplish this purpose.

2. The level of assessment necessary to accomplish the purpose of the program to ensure that the compact payments do not create an incentive to generate additional supplies of milk.

3. Whether the assessment should be a flat rate, or whether it should fluctuate with the amount of the monthly compact producer price.

4. Whether a refund payment per hundredweight should be paid on the amount of reduced milk production or the total milk production for the period.

5. Whether the refund should be paid only on a flat per producer basis or only

on a per hundredweight basis to all eligible producers.

Base/Excess Program

1. What percent of production should be used to establish the base for new producers.

2. Whether the base should be established according to the average production of the two preceding calendar years.

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 hearings on July 7, 1999 and August 4, 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.

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.

Request for Pre-Filed Testimony and Written Comments

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 August 18, 1999.

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.

The Commission is requesting pre-filed testimony from any interested person. Pre-filed testimony must include the name, address and occupation of the witness and a sworn notarized statement indicating that the testimony is presented based upon the author's personal knowledge and belief. Pre-filed testimony must be received in the Commission office no later than 12:00 p.m., June 30, 1999 for the July 7 hearing and by 12:00 p.m., July 28, 1999 for the August 4 hearing.

List of Subjects in 7 CFR Parts 1306, 1307, 1309 and 1310

Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission proposes to amend 7 CFR part 1306, to make corresponding technical amendments to part 1307 and to add a new part 1309 or part 1310 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 revise paragraph (c) and 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.

* * * * *

(c) In any month when the average percentage increase in production in the regulated area comes within 0.25 of the average percentage increase in production for the nation, subtract from the total value computed pursuant to paragraph (a) of this section, for the purpose of retaining a reserve, an amount estimated by the commission in consultation with the USDA for anticipated cost to reimburse the Commodity Credit Corporation (CCC) at the end of its fiscal year for any surplus milk purchases. Should those funds not be needed because no surplus purchases were made by the CCC at the end of its fiscal year or there is a surplus in the fund, it is to be returned to the producer-settlement fund.

* * * * *

(e) Subtract .05 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.

Option One

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 section 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) Add the unobligated balance of the supply management-settlement fund;

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

(e) Subtract not less than one (1) cent nor more than two (2) cents for the purpose of retaining a cash balance in the supply management-settlement fund. The result shall be the supply management refund price for the year.

§ 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 and the amount subtracted under § 1309.2(e). It shall pay from the fund all amounts due producers pursuant to § 1309.4 and the amount added pursuant to § 1309.2(c);

(b) All amounts subtracted under § 1309.2(e), 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 § 1309.2(c);

(c) The compact commission shall place all monies subtracted under § 1306.3(e) of this chapter and § 1309.2(e) 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.

§ 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 reduced milk pounds, not to exceed \$12,000.

Option Two

6. A new part 1310 is added to read as follows:

PART 1310—BASE-EXCESS PROGRAM

Sec.

1310.1 Base milk.

1310.2 Excess milk.

1310.3 Computation of base for each producer.

1310.4 Base rules.

1310.5 Announcement of base.

1310.6 Responsibility for establishment of producer base.

Authority: 7 U.S.C. 7256.

§ 1310.1 Base milk.

Base milk means milk means milk received from a qualified compact producer by a pool handler which is not in excess of such producer's monthly base computed pursuant to § 1310.3 of this part.

§ 1310.2 Excess milk.

Excess milk means milk received from a qualified compact producer by a pool handler which is in excess of base milk received from such producer during the current month.

§ 1310.3 Computation of base for each producer.

For each month of the year, the Compact Commission shall announce, subject to the rules set forth in § 1310.4 of this part, a base for each producer described in paragraphs (a) and (b) of this section. Each producer's base in the current month is based upon their milk production in the same month of the preceding calendar year, except as provided in paragraph (c) of this section.

(a) For any producer, except as provided in paragraph (b) of this section, the quantity of milk receipts shall be the total pounds of producer milk received by all pool handlers from such producer.

(b)(1) Any producer who made no qualifying milk deliveries during the base-forming period shall have a base reflecting the percentage of the producer's monthly deliveries or producer milk each month as set forth in the following table:

Month	Percentage of production as base
January, February, July, August, September, October, November and December ...	90
March, April, May and June ...	80

(2) A new monthly base is earned on the basis of the producer's milk deliveries during the current calendar year.

(c) On or before the 31st of October of each calendar year, the Commission will announce the base year to be used for the following calendar year. If the rate of milk production in the compact region for the preceding federal fiscal year (October through September of the current year) exceeds the national rate of increase for the same period, then the Commission shall apply the same base

currently in effect to the following calendar year. If the rate of milk production in the compact region for the preceding federal fiscal year (October through September of the current year) is less than or equal to the national rate of increase for the same period, then the Commission shall apply the current year production volumes as the base for the following year. Provided that, a base established pursuant to paragraph (b) of this section shall not be subject to the freezing provisions of this section.

§ 1310.4 Base rules.

The following shall apply in connection with the establishment of bases:

(a) A base computed pursuant to paragraph (a) of § 1310.3 of this part shall be effective January 1, 2000.

(b) A base computed pursuant to paragraph (a) through (e) of this section may be transferred only in its entirety to another dairy farmer and only upon discontinuance of milk production because of the entry into military service of the baseholder.

(c) Base transfer shall be accomplished only through written application to the Compact Commission on forms prescribed by the Compact Commission and shall be signed by the baseholder and by the person to whom such base is to be transferred: Provided, that if a base is held jointly, except as provided in paragraph (e) of this section, the entire base only is transferable and only upon receipt of such application by all joint baseholders.

(d) If a producer operates more than one farm and milk is received from each at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1301.9(d) of this chapter, the producer shall establish a separate base with respect to producer milk delivered from such farm: Provided, that if such farm and herds are combined into one dairy farm, the separate bases may be combined into one base subject to approval of the Compact Commission.

(e) Only one base shall be allocated with respect to milk produced by one or more persons where dairy farm is jointly owned or operated: Provided, that in the case of a base established jointly, if a copy of the partnership agreement setting forth as a percentage of the total interest of the partners in the base is filed with the Compact commission before the end of the base-forming period, then upon termination of the partnership agreement each partner will be entitled to the partner's stated share of the base to hold in the partner's own right or to transfer in conformity with

the provisions of paragraph (b) or (c) of this section (including transfer to a partnership of which the partner is a member). Such termination of a partnership shall become effective as of the end of any month during which an application for such division of base signed by each member of such partnership is received by the Compact Commission.

(f) Two or more producers with bases may combine such bases upon the formation of a bona fide partnership operating from one farm. Such a combination shall be considered a joint base under paragraph (c) of this section.

(g) Subject to the approval by the Compact Commission, the name of the baseholder may be changed to that of another member of the baseholder's immediate family, but only under circumstances where the base would be applicable to milk production from the same herd and on the same farm.

§ 1310.5 Announcement of base.

On or before January and July the Compact Commission shall notify each producer, the handler receiving the producer's milk and the cooperative association of which the producer is a member of the monthly base established by such producer.

§ 1310.6 Responsibility for establishment of producer base.

Handlers who operate a pool plant and receive milk from producers and a cooperative association in its capacity as a handler pursuant to § 1301.9(d) of this chapter must submit to the Commission documentation on each producer's monthly milk production of the preceding calendar year. Such documentation shall be filed with the Commission not later than 60 days before January and July of the current year. Failure to comply with this section will result in producer bases be established pursuant to § 1310.3(b) of this part.

Dated: June 14, 1999.

Kenneth M. Becker,

Executive Director.

[FR Doc. 99-15506 Filed 6-18-99; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. PL98-1-001]

Public Access to Information and Electronic Filing; Notice of Availability of Staff Issue Papers for Technical Conference

June 15, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of availability of staff issue papers for technical conference on electronic filing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) notifies interested persons that the Commission Staff is making staff issue papers on major electronic filing issues available for the purpose of facilitating discussion of these issues at the technical conference. The recommendations in the issue papers are preliminary and are subject to revision based on input from the conference and further analysis by staff.

DATES: The conference will be held on Thursday, June 24, 1999, beginning at 9:30 a.m. The Commission published notice of the conference on May 26, 1999.

ADDRESSES: The technical conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Brooks Carter, Office of the Chief Information Officer, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 42-29, Washington, DC 20426, (202) 501-8145, FAX: (202) 208-2425, E-Mail: brooks.carter@ferc.fed.us.

Wilbur Miller, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 91-17, Washington, DC 20426, (202) 208-0953.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the

Commission. CIPS can be accessed via Internet through FERC's Home Page (<http://www.ferc.fed.us>) using the CIPS link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. User assistance is available at 202-208-2474 or by E-mail to CipsMaster@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208-2222, or by E-mail to RimsMaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc., is located in the Public Reference Room at 888 First Street, N.E., Washington, DC 20426.

Take notice that the Commission Staff (Staff) is making available staff issue papers for review in advance of the technical conference on electronic filing. The issue papers are intended to facilitate discussion at the conference of major issues pertaining to the Commission's Electronic Filing Initiative (EFI). The conference will be held on Thursday, June 24, 1999, and will commence at 9:30 a.m. in the Commission Meeting Room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The conference is open to all interested persons.

Staff is convening the conference to: discuss and resolve the issues addressed in the issue papers; review and discuss a prototype for electronic filing, including any desired features or enhancements; discuss prototype testing; and address other electronic filing issues of interest to those in attendance.

The issue papers included with this notice contain Staff's analyses and preliminary recommendations for major electronic filing issues, including:

- (1) Filing Formats
- (2) Citation
- (3) Record Retention
- (4) Official Filing Date
- (5) Electronic Filing Authentication and Verification (Signatures)
- (6) Document Content Standards (for Electronic Submissions)