



B-283558

September 16, 1999

The Honorable Richard G. Lugar
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Larry Combest
Chairman
The Honorable Charles W. Stenholm
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: Department of Agriculture, Agricultural Marketing Service: Milk in the New England and Other Marketing Areas; Order Amending the Orders

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture, entitled "Milk in the New England and Other Marketing Areas; Order Amending the Orders" (DA-97-12). We received the rule on September 2, 1999. It was published in the Federal Register as a final rule on September 1, 1999. 64 Fed. Reg. 47898.

The final rule consolidates the current 31 federal milk marketing orders into 11 orders in compliance with the 1996 Farm Bill (Pub. L. 104-127), which mandated that the current federal milk marketing orders be consolidated into between 10 and 14 orders. The rule also sets forth, among other changes, a replacement for the Class I price structure and replaces the basic formula price with a multiple component pricing system.

Enclosed is our assessment of Agriculture's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that Agriculture complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Larry Dyckman, Director, Food and Agriculture Issues. Mr. Dyckman can be reached at (202) 512-5138.

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Kathleen A. Merrigan
Administrator
Agricultural Marketing Service
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
AGRICULTURAL MARKETING SERVICE
ENTITLED
"MILK IN THE NEW ENGLAND AND OTHER MARKETING AREAS;
ORDER AMENDING THE ORDERS"
(DA-97-12)

(i) Cost-benefit analysis

A cost-benefit analysis was conducted based on the 6-year period from 2000 to 2005 which showed that the all-market average Class I differential is reduced an estimated \$0.29 per hundredweight. Since the Class I price mover is based on the higher of the Class III or Class IV value, the Class I price is expected to average down only \$0.19 per hundredweight. As a result, milk used in Class I products is estimated to increase an average of 42.1 million pounds annually for the 2000-2005 period. Even though consumption of Class I products increases, price decreases result in \$80.4 million less costs annually to consumers and less revenue to dairy farmers delivering to federal order markets. However, primarily because of the increase in the Class II price, consumers spend \$77.6 million more for manufactured dairy products even though 34.1 million pounds less federal order milk is sold in manufactured products.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Department of Agriculture considered the economic impact of the reforms contained in the final rule on small entities and prepared a final regulatory flexibility analysis which was included in the final decision published in the Federal Register. 64 Fed. Reg. 16034. The analysis discusses the steps taken to minimize the impact on small entities while adhering to the stated objectives of the rule. The Department attempted to balance the interests of the small producer and the small processor in drafting the final rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not impose either an intergovernmental or private sector mandate of over \$100 million per year, as defined in the Unfunded Mandates Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On January 30, 1998, a Notice of Proposed Rulemaking was published in the Federal Register. 63 Fed. Reg. 4802. Subsequently, the time period for the receipt of comments was extended. 63 Fed. Reg. 12417.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The information collection requirements contained in the final rule were previously approved by the Office of Management and Budget under OMB control number 0581-0032, effective through September 30, 2001.

Statutory authorization for the rule

The final rule was issued under the authority of section 143 of the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104-127, April 4, 1996.

Executive Order No. 12866

The final rule was reviewed under the Order and found to be an “economically significant” regulatory action and approved by the Office of Management and Budget as complying with the requirements of the Order.