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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: 72 FR 36343, July 3, 2007, unless otherwise noted.

### § 1170.1 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any other officer or employee of the Department 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, Pub. L. No. 106-532, 114 Stat. 2541, and the Farm Security and Rural Investment Act of 2002, Pub. L. No. 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.

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### § 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 PROGRAM

### § 1170.7 Reporting requirements.

(a) Manufacturers of dairy products shall report on a weekly basis all sales transactions for the previous week, on the appropriate forms supplied by the National Agricultural Statistics Service. The report shall indicate the name, address, plant location, quantities sold, and dollars received or the prices of dairy products as defined in § 1170.4.

(b) Manufacturers or other persons storing dairy products shall 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 Statistics Service. 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) Sale: When a transaction is completed (for example: cheese is “shipped out” and title transfer occurs.)

(2) Variety: Cheddar Cheese.

(3) Style: 40-pound blocks or 500-pound barrels.

(4) Moisture Content: 40-pound blocks, exclude cheese that will be aged. Barrels Report—moisture content of cheese sold, not to exceed 37.7 percent.

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

(6) Grade: Barrels—Wisconsin State Brand or USDA Extra Grade or better. 40-pound blocks—Wisconsin State Brand or USDA Grade A or better.

(7) Color: Barrels—White, 40-pound blocks—colored between 6-8 on the National Cheese Institute color chart.

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(8) Packaging: 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. Barrels—Exclude all packaging costs from the reported price.

(9) Price: Price should be reported as price per pound or total dollars received. Price is f.o.b. processing plant/storage center.

(10) Include: CCC purchases under the Dairy Price Support and related programs, and CME sales by initial manufacturer.

(11) Exclude: Block cheese that will be aged, transportation and clearing charges from price, intra-company sales, resales of purchased cheese and forward pricing sales (sales in which the selling prices was set (not adjusted) 30 or more days before the transaction was completed).

(b) Specifications for Butter Prices:

(1) Sale: When a transaction is completed (for example: Butter is “shipped out” and title transfer occurs.) Report sales of butter that meets USDA Grade AA standards, 80 percent butterfat, salted—fresh or storage.

(2) Price: Price is f.o.b. processing plant/storage center. Prices and quantities are for all 25 kilogram and 68 pound box sales.

(3) Include: CCC purchases under the Dairy Price Support and related programs, and CME sales by initial manufacturer.

(4) Exclude: Unsalted and Grade A butter, transportation and clearing charges from price, intra-company sales, resales of purchased butter and forward pricing sales (sales in which the selling prices was set (not adjusted) 30 or more days before the transaction was completed). This exclusion does not include sales through the Dairy Export Incentive Program (DEIP).

(c) Specifications for Dry Whey Prices:

(1) Sale: When a transaction is completed (for example: dry whey is “shipped out” and title transfer occurs.) Sales are for USDA Extra Grade edible nonhygroscopic dry whey.

(2) Price: Prices is f.o.b. processing plant/storage center. Prices and quan-

ties are for all 25 kilogram bag, 50 pound bag, tote and tanker sales.

(3) Exclude: Sales of Grade A dry whey, sales of dry whey more than 180 days old, transportation charges from price, intra-company sales, resales of purchased dry whey and forward pricing sales (sales in which the selling prices was set (not adjusted) 30 or more days before the transaction was completed.)

(d) Specifications for the Nonfat Dry Milk Prices:

(1) Sale: When a transaction is completed (for example: nonfat dry milk is “shipped out” and title transfer occurs.) Sales are for USDA Extra Grade and USPH Grade A, non-fortified, nonfat dry milk.

(2) Price: Price is f.o.b. processing plant/storage center. Prices and quantities are for all 25 kilogram bag, 50 pound bag, tote and tanker sales.

(3) Include: Nonfat dry milk manufactured using low or medium heat process, CCC purchases under the Dairy Price Support and related programs, and CME sales by initial manufacturer.

(4) Exclude: Sales of nonfat dry milk more than 180 days old, nonfat dry milk manufactured using high heat process, sales of instant nonfat dry milk, sales of dry buttermilk products, transportation and clearing charges, intra-company sales, resales of purchased nonfat dry milk and forward pricing sales (sales in which the selling prices was set (not adjusted) 30 or more days before the transaction was completed). This exclusion does not include sales through the Dairy Export Incentive Program (DEIP).

### § 1170.9 Storage reporting specifications.

(a) Reporting universe: (1) Cold Storage Report: All warehouses or facilities, except those described in §1170.16, artificially cooled to a temperature of 50 degrees Fahrenheit or lower where dairy products generally are placed and held for 30 days or more. Excluded are stocks in refrigerated space maintained by wholesalers, jobbers, distributors, and chain stores; locker plants containing individual lockers; and frozen food processors whose inventories are turned over more than once a month.