



United States Department Of Agriculture

Agricultural Marketing Service Dairy Programs

FEDERAL MILK ORDER No. 1
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February 18, 2011

TO: Handlers and Interested Parties
FROM: Market Administrator, Boston, Massachusetts
SUBJECT: Dumped Milk Reporting Guidelines

The attached document sets forth revised guidelines and acceptable circumstances under which milk may be classified as “*other uses*” for pooling and pricing purposes under the Northeast Order. Section 1000.40(e) under all federal orders specifies that skim milk and butterfat used to make products, as described under §1000.40, that is dumped, used for animal feed, destroyed, or lost by a handler in a vehicle accident, flood, fire, or similar occurrence beyond a handler’s control may be classified under “*other uses*.” Such uses of skim milk and butterfat shall be assigned to the lowest priced class for the month to the extent that the quantities destroyed or lost, in each case, can be verified from records satisfactory to the market administrator.

These guidelines have been developed to clarify current procedures and allow for the consistent application of the “*other uses*” designation. In some cases, these procedures will be different from existing practices, but will align reporting requirements for the Northeast Order with those utilized in other federal orders.

Reporting Requirement

All requests for consideration of an *other uses* classification must now be made on a request form submitted to the Market Administrator by the **next business day** following the incident. A copy of the “Report of Milk Products Dumped or Lost” form is attached, and will be available as a fill-able PDF form on the Market Administrator’s website: www.fmmone.com under the *Handler Report Forms* section. The completed form must be faxed to 866-814-8579 or emailed to dumpedmilk@fedmilk1.com

These reporting procedures will become effective in April, 2011.

/s/ Erik F. Rasmussen

Enclosures

Guidelines for Dumped Milk, Accidental Loss and Animal Feed, Classified as “Other Uses”

For the Northeast Milk Marketing Area

Following are the guidelines and acceptable circumstances under which milk may be classified as “other uses” for pooling and pricing purposes under the Northeast Order. Section 1000.40(e) under all federal orders specifies that skim milk and butterfat used to make products, as described under §1000.40, that is dumped, used for animal feed, destroyed, or lost by a handler in a vehicle accident, flood, fire, or similar occurrence beyond a handler’s control may be classified under “other uses.”

In situations where the *other uses* designation is utilized, it is important to ensure that the same product is not reported as part of another form of utilization on a handler’s monthly report of receipts and utilization (e.g. route disposition, used to produce, etc.)

In all cases, notification to the Market Administrator of any dumps or disposals must occur by the close of the next business day following the reported incident.

Dumped Milk

1. Dumped milk may be claimed as utilization when a volume of dairy products has been collected from stores, internal operations, or other outlets, and will be discarded. The volume reported for dumping may include bulk volumes or packaged products; however, all products must be physically assembled at the plant reporting the disposition prior to such dumping. Route returns or sales credits that are collected at a distribution depot or customer location are not reportable as *other uses* and will remain part of the route disposition volume.
2. Only dairy products, or dairy ingredients in the case of certain manufactured products, are eligible for the “*other uses*” dump classification. For products accounted for on a used-to-produce basis, the volumes will be deducted from the current month’s used-to-produce volumes; therefore, handlers can only claim “*other uses*” to the extent that they have manufacturing of those products.
3. *Other uses-dumped milk* is restricted to those products collected, measureable, and testable. Small volumes of packaged products that routinely are dumped may be reported without request; however, a summary of the number of units destroyed, including the conversion to pounds, and the type of unit including milk, cream or manufactured products will be required by the fifth day after the end of the month in which the dump occurred.
4. Product dumps that have been successfully reported must be included on a handler’s monthly pool receipts and utilization report. For all bulk volumes dumped, the retention of a milk sample is required. The sample shall be retained for 72 hours for possible testing by the Market Administrator, after which, the sample may be disposed. Contaminated product is not eligible for “*other-uses*” classification and would be part of plant shrinkage.

Farm Tanker Dumps

1. Any load of producer milk testing positive for animal drug residue contamination, rejected by a handler prior to receipt at a plant, will be considered “Milk not approved by a duly constituted regulatory agency for fluid consumption” [Section 1001.12(a)]. Milk from the producer(s) identified as causing the contamination will not be pooled and is not subject to the minimum payment provision of the Order. Milk from that producer cannot be repooled until their milk meets the Grade-A requirements for fluid consumption. The pool status of commingled milk from other producers on the tanker load will not be affected. Such milk, which was contaminated through no fault of their own, will be considered to be a receipt for the handler reporting the producer deliveries, and handlers are obligated to pay producers the appropriate minimum order prices. The utilization for rejected farm tankers will be reportable as “*other uses-dumps*.”
2. High bacteria or other off-quality milk should be detected by the farm pickup driver and rejected at that point. It is incumbent upon the collector, as agent of the handler, to examine the milk and make a finding as to whether or not the milk is of proper quality to be accepted into the handler's supply. Handlers are required to

pay producers for all milk, other than antibiotic contaminated milk, that is loaded onto a tank truck at a producer's farm.

Animal Feed

1. Milk or dairy products disposed of as animal or livestock feed can be claimed as *other uses-animal feed*. The volumes slated for animal feed may include bulk milk or packaged product. All such products must be physically assembled at the plant, reporting the disposition, prior to usage at a livestock operation. Route returns or sales credits that are collected at a distribution depot or customer location are not reportable as *other uses-animal feed* and will remain part of a handler's route dispositions. Only dairy products, or dairy ingredients in the case of certain manufactured products, are eligible to be claimed as *other uses-animal feed*. For products accounted for on a used-to-produce basis, the volumes will be deducted from the current month's used-to-produce volumes; therefore, handlers can only claim *other uses* to the extent that they have manufacturing of those products.
2. A signed document is required from the livestock operator for each receipt of product that includes volume, weight, and date of shipment. Additionally, access to the facility, by the Market Administrator, may be required for verification. Bulk volumes require the collection and retention of a sample, for a period of 72 hours, for possible analysis after which the sample may be discarded. Packaged products converted to bulk volumes prior to disposal do not require the retention of a sample.
3. Bulk animal feed volumes cannot be claimed for product that already has been lost. Small volumes of packaged products, that are routinely disposed of as animal feed, may be requested for approval without advanced authorization. However, a detailed summary of the number and type of units destroyed, including the conversion to the monthly volume in pounds, is required to be submitted to the Market Administrator by the fifth day after the end of the month in which the disposal occurred.
4. Dairy products reported as disposed of as animal feed must be included on the monthly handler report so long as this classification is not disapproved by the Market Administrator prior to the report submission date.

Accidental Loss

1. Accidental loss can be claimed as *other uses-accidental loss* when a volume of dairy products has been lost, is not measurable, and has occurred as a result of circumstances outside of the handler's control. This utilization is reserved for extraordinary and unexpected events at a dairy plant, not those experienced in the course of normal dairy operations.

Instances such as vehicular accidents, floods, fires, or natural disasters are consistent with *other uses-accidental loss* occurrences. Leaks, spills, and equipment malfunctions are not considered extraordinary in a dairy plant and the shrinkage provision, § 1000.43 (b), provides for such disappearances from normal plant operations.

2. Dairy products that are collected should be considered for the *other uses-dumps* utilization designation rather than the *other uses-accidental loss* designation, which is reserved for products that have disappeared and could not be physically accumulated and accounted for at the plant, prior to disposal.

Notification to Receive Credit

Notification must be made using the Market Administrator's "other uses" reporting form; a copy of which is attached. Presently, advance notice and consent is not required prior to product being dumped; however, the Market Administrator retains the right to require advance notice as a condition to receive an "other uses" classification.

Official notification does not guarantee acceptance of an "other uses" classification. Records and evidence satisfactory to the Market Administrator must be maintained by the handler to support the claimed usage as described in this document and in sections 1000.27 and 1000.40 of the Northeast Order.